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SAFETY OF CHILD PASSENGERS IN MOTOR VEHICLES

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSUMER

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

SAFETY OF CHILD PASSENGERS WHILE TRAVELING IN MOTOR VEHICLES

FEBRUARY 7, 1990

Printed for the use of the
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SAFETY OF CHILD PASSENGERS IN MOTOR VEHICLES

WEDNESDAY, FEBRUARY 7, 1990

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE FOR THE CONSUMER,
Washington, DC.

The subcommittee met at 10:33 a.m. in room SD–628, Dirksen Senate Office Building, Hon. Richard Bryan (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Linda Lance and Moses Boyd staff counsels; and Alan Maness, minority staff counsel.

OPENING STATEMENT OF SENATOR BRYAN

The subcommittee hearing will come to order.

While the safety of everyone who travels on our highways is important, it is our children, especially the youngest, who most depend upon us for their safety. Each year, hundreds of young children are killed in motor vehicle crashes, and thousands more receive injuries that they carry with them throughout their lives.

One fact is clear: the use of child safety seats can help to reduce this dreadful toll to the lowest number possible. Beginning in 1970 and updated in 1981, the National Highway Traffic Safety Administration, NHTSA, established safety standards for child safety seats. At the same time, all 50 states passed legislation requiring the use of these safety seats.

As Governor of Nevada, I advocated and signed into law a requirement that safety seats must be used in all automobiles for children under the age of five.

The result of these efforts has been encouraging. According to the National Highway Traffic Safety Administration, usage of child safety seats has risen from 15 percent in 1979 to some 81 percent in 1989. If these seats are used properly, they can reduce a child's risk of injury by some 70 percent.

Last November, however, a report was issued by the Center for Auto Safety. That report made several serious allegations about the safety of some child restraints, as well as the effectiveness of NHTSA, the agency responsible for its enforcement.

Among other allegations, the report charges that many of the seats in the market are defective and unsafe, that the recall system required by the Federal government and implemented by the manufacturers is inadequate, that NHTSA has repeatedly failed to conduct compliance investigations, even after a test failure, and that,

finally, there is a pattern of prematurely closed investigations, partial recalls, and requests for enforcement actions that are being stalled.

This report levels dramatic charges which will be the focus of much of what we discuss this morning. There are those in the safety community who do not agree with all of the conclusions in this report. Among those that we will hear this morning is Mr. Clarence Ditlow, the author of the report, the Executive Director of the Center for Auto Safety.

We will also hear this morning from General Jerry Curry, the new Administrator of NHTSA, who is charged with ensuring the safety of child restraint systems. And we have a host of other expert witnesses who will offer their views this morning for the subcommittee's consideration.

With these witnesses, we hope to clarify many of the issues involved in child safety restraint systems. The charges made should not be taken lightly. If corrective actions are needed, we should move in that direction.

At the same time, everyone agrees—and I want to repeat that—everyone agrees, whether they support the conclusions reached in the Center for Auto Safety's report or whether they find themselves in disagreement with one part or all of it, everyone agrees that the two most important things a parent can do to assure a child's safety while traveling in an automobile are: number one, to use a child safety seat; and number two, to use that seat properly.

I have a statement that Senator Gorton would like to have included in the record.

[The statement follows:]

OPENING STATEMENT BY SENATOR GORTON

Thank you, Mr. Chairman, for calling this hearing to kick-off "National Child Passenger Safety Awareness Week."

We hear a lot about childhood diseases, but highway crashes are the leading cause of death of children and young adults between the ages of one and 34.

In recent years, we have cut this toll by increased seat belt use and the use of child safety seats. Child safety seats are one of the great success stories in highway safety. All 50 states now have laws requiring their use. Use rates have increased from 23 percent in 1981 to over 80 percent.

Child safety seats would be an even greater aid to safety if they were used properly. Unfortunately, about 30 percent of the time the seats are not properly hooked up. This can lead to needless death and injury.

Mr. Chairman, I look forward to hearing from today's witnesses, including NHTSA Administrator, Jerry Curry, to get their thoughts on how we can improve the safety of children in automobiles. Thank you.

Senator BRYAN. We will begin our testimony this morning with General Curry, the Administrator of the agency. And I might preface my remarks to indicate that, General, we know that you made a change in your schedule. You were, I believe, scheduled for a retreat this morning with your staff in Annapolis. But we wanted to have you here and to be our lead-off witnesses, and let me tender the floor to you, sir.

STATEMENT OF GEN. JERRY R. CURRY, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, ACCOMPANIED BY MICHAEL BROWNLEE, DIRECTOR, OFFICE OF DEFECTS INVESTIGATION; ROBERT HELLMUTH, DIRECTOR, OFFICE OF VEHICLE SAFETY COMPLIANCE; AND JEFFREY MICHAEL, DIRECTOR, OFFICE OF OCCUPANT PROTECTION, TRAFFIC SAFETY DEPARTMENT

General CURRY. Thank you very much, Mr. Chairman. I am pleased and honored to be here. I am pleased to appear before you today to discuss the subject of child passenger safety. I will have about a minute of opening remarks and then I want to show you some charts, and then I will be available for any questions you may have.

With me are three people: Michael Brownlee, the fellow here with the beard, who is the Director of our Office of Defects Investigation.

Senator BRYAN. If you would like to have them join you at the table, if it is any easier for you——

General CURRY. Would that be all right?

Senator BRYAN. Sure, you bet. Go right ahead.

General CURRY. Would you come up, please.

Also are Bob Hellmuth—he is the one who is growing hair, sir.

Senator BRYAN. I have a lot of sympathy for him, General. If you have got some tough points in the testimony, you might have him respond.

Good morning.

Mr. HELLMUTH. Good morning.

General CURRY. He is the Director of our Office of Vehicle Safety Compliance. And Jeff Michael, on my right, is from the Office of Occupant Protection of our Traffic Safety Program.

Before I talk about child safety, I would like to just simply say I am delighted to come in from Annapolis to be here today.

Today's hearing addresses a key segment of highway safety, the safety of children, and we are glad to participate because it gives us a forum to stress in the strongest terms, as you already have stressed, that the best way to improve safety for small children riding in motor vehicles is to secure them in place properly.

For infants riding in properly used infant seats, it appears that the seats prevent about 70 percent of the deaths and serious injuries that would occur.

The bad news, and the reason that we are anxious to publicize the benefits of safety seats, is that there are 40 percent of our children, 30 to 40 percent, who could be protected by seats, but who are not protected because they are not being properly placed in seats.

Since 1981, we have tested more than 600 seats, representing 200 seat models. Some of these tests have resulted in test failures which upon further examination do not prove to have safety significance. Other failures have had significance and we have investigated those.

A child who is too large for a safety seat should be restrained by a booster seat or by a properly secured safety belt. If the belt is used, the child should wear it very low, across the lap, not across

the stomach. If the belt is a lap-shoulder belt combination, the shoulder belt can be worn, unless it cuts across the child's face or neck, in which case it should be placed behind the child's back.

There are questions about the relative effectiveness of child safety seats or lap-only belts compared to just lap-shoulder belt combinations. But the debate on that question should not obscure the fundamental point that restraining a child with either a safety belt or a safety seat is better than having a child unrestrained.

And with that, I have just a few charts.

Senator BRYAN. Sure.

[Charts shown:]

General CURRY. The first chart, Mr. Chairman, you have looked at. It is rather obvious. It simply tells us the benefit of having some kind of restraint device as opposed to none.

The second chart is just to show you that we have listened very much to the charges you and your subcommittee have given us on safety. When a petition came in, it used to be, 1985 and 1986, that it took about ten months before we would grant or deny the petition. By law it is supposed to be four months.

Last year we were able to drive it down to about 3.3 months. So I am saying to you we are paying much more attention to petitions, wherever they come from, and we are ruling on them much faster.

This shows you the number of notices of proposed rulemakings or final rules we have issued. The only purpose of this chart is to show you that in 1989 in the last six months we were able to significantly raise the numbers of NPRM's and final rules issued.

This chart, Mr. Chairman, is to show something that has not been released to the public yet. It will come out in a press release later in the week, and what it shows you is that the number of fatalities per 100 million miles driven has finally gotten—and 1989 is an approximate figure—down to 2.2, which is the goal that we have been striving to for some time.

And as you can see, that number has been driven down. We will do our very best not only to maintain that, but to drive it down further in the coming years.

This chart is one you have seen many times, 47,000 fatalities per year. I only call your attention to two things. If we are talking child safety, the chart shows that most of our children and adults are killed in passenger cars and light trucks and vans, and those are the percentages that you can see there.

In 1988 these are the serious injuries we had and, as you can see, the passenger cars and light trucks hold constant. So if we are talking about injuries to children, we will save most of those by concentrating in these numbers across the top of the chart.

Now, the same thing applies, of course, if you are talking about fatalities. This chart is an interesting one. We have used 1986 because it is the last year where we have complete data.

But it shows you we have an appalling amount of our national resources involved in these things. And we are pleased that your subcommittee has worked so hard toward traffic safety.

This chart I will spend just a minute on in a little more detail. Let me begin by saying that it is broken into two sets of figures. Figures in the bottom are included in the top figures.

When we talk about children under the age of ten, these figures here are included over here, where we say "All Ages." As you look at it and at the costs that are shown, there are a couple of things I would mention. And one of them is this, sir: You and your committee have pushed us very hard to move a side impact rule, and it is very clear that if we are talking about children, that is where we will make our most gain. Fatalities in children, 1988, just in side crashes 330 as opposed to 98.

And by the way, sir, these charts are available and we are happy to make them available to your staff or anyone else that may need them.

We are trying very hard to get that side impact rule through. It will save more lives, children's lives, than the child seat, which was 98 fatalities last year. But we do not denigrate this. This is a very important issue, the child seat issue.

A question that has come up has been on the child safety seat recall activity. We thought you might want to just simply glance at this. The compliance heading refers to our review of whether child seats meet the safety standards. Defect investigation means something is wrong with the seat that does not relate to the standards and therefore we must take a look at it, do something to it.

And that gives you a feel for the total number of recalls. And note the calendar years 1981 to 1989.

The last chart, sir, just simply says, one of the subjects that has come up has been a general subject, not on children—children to a degree—which is on the use of rear seats. This gives you a feel for some of the fatalities of those people in the rear seats.

When you are talking about 47,000 fatalities, note that of those 47,000 we are talking about 2,118 in the rear seat. And what this says to us, of course, is that the rear seat is a much safer place to be than in the front seat.

Sir, that concludes my briefing, and with that I would be happy to take your questions.

[The statement and questions and answers follow:]

STATEMENT OF JERRY RALPH CURRY
ADMINISTRATOR
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
BEFORE THE
SUBCOMMITTEE ON CONSUMER
OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

February 7, 1990

Mr. Chairman and Members of the Subcommittee. I am pleased to appear before you today to discuss the subject of child passenger safety. With me are Michael Brownlee, the Director of our Office of Defects Investigation, and Robert Hellmuth, the Director of our Office of Vehicle Safety Compliance.

Before I talk about child passenger safety, I want to say how pleased I am to appear before you as the new Administrator of the National Highway Traffic Safety Administration and to bring you the latest news item from the highway safety front: our preliminary fatality data from 1989 indicate that the fatality rate has fallen another tenth of a point, to an all-time low of 2.2 deaths per hundred million miles travelled. This is good news, and demonstrates that the broad-based effort to improve highway safety is working. I hope that we will be able to meet with you to discuss other topics such as light truck safety and side impact protection, where we're also making significant progress. I would like to submit a status report for the record on these activities to bring the Subcommittee up to date on what we're doing.

Today's hearing addresses a key segment of highway safety: the safety of children. We're glad to participate in the hearing, because it gives us a forum to stress, in the strongest terms, that the best way to improve safety for small children riding in motor vehicles is to secure them properly in

child safety seats. I can't repeat that message enough, and I'll return to it throughout my remarks: put your children in safety seats and make sure they're properly secured.

There was once a folk belief that children in cars didn't need special protection. After all, when toddlers fall down (as they do every day), they bounce right back and keep on going. Their bones are pliable, unlike those of adults, and we tend to think of them as resilient and resistant to injury. Kids are tough, right?

Wrong. That folk belief is a long, long way from the truth. Any pediatrician can tell you that children are easily hurt, that they are particularly prone to head injuries, and that a brain or spinal cord injury to a child can have devastating consequences that last a lifetime. The most likely source of this type of injury for a small child is the family vehicle. Traffic crashes are the single greatest source of traumatic head and spinal cord injury for young children. Each year hundreds of small children are killed in motor vehicle crashes, and thousands more receive injuries that will stay with them for the rest of their lives.

That's why NHTSA adopted a standard for child safety seats in 1970 as one of the early motor vehicle safety standards. It was clear to us then, and now, that small children riding in motor vehicles need special protection, above and beyond the protection offered by safety belts designed for larger occupants. The standard pushed the child seating manufacturers to develop seats that gave children real protection, and not just a better view of the road.

By the late 1970's, we had learned enough about crashes and child injuries to know that the seats had to be improved still further. Effective January 1, 1981, we amended the standard to require that child safety seats

pass a rigorous dynamic test to simulate a real-world crash. Seats manufactured after that date are certified to the new standard and offer a high level of protection if they are used and used properly.

We've obtained enough crash data to be reasonably confident in predicting the benefits of safety seat use. For infants riding in properly used infant seats, it appears that the seats prevent about 70 percent of the deaths and serious injuries that would otherwise occur. This makes it far and away the most effective device for passenger safety. For toddlers and children up to about the age of 4, a child safety seat is almost 50 percent effective in preventing death or serious injury -- about as effective for a child as a lap/shoulder belt combination is for an adult.

We know the seats are effective -- if they're used. For the last ten years, our goal has been to increase the percentage of children riding in safety seats. We've worked with a wide network of organizations, ranging from the State safety agencies to the American Academy of Pediatrics to grassroots organizations of parents, to inform parents about the importance of child seats. One great accomplishment has been the enactment of child passenger protection laws in all 50 States, the District of Columbia and Puerto Rico. These laws have been a key element in the campaign to raise safety seat use, and they have laid the groundwork for general safety belt use laws.

The result of all this effort is encouraging. From a level of 15 percent usage in 1979, we've seen use increase to 81 percent in 1989. What's more, the level of correct use has also increased. Our ongoing survey of safety belt use in 19 cities across the country shows that in 1989 approximately 73 percent of the children in seats or wearing belts were properly restrained, for a total correct usage rate of almost 60 percent. That's the good news.

The bad news, and the reason we're so anxious to publicize the benefits of safety seats, is that the other 40 percent of children who could be protected by seats or belts are still not being protected, either because they're not restrained at all, or because they're not properly restrained. We're concerned that even this estimate of unprotected children may be low, since studies of fatal crashes indicate that fewer children in the crash-involved vehicles are protected than in the vehicles observed in the 19-city survey.

For 1988, the last year for which we have complete data, we estimate that the lives of about 250 children under the age of 5 were saved by child safety seats or safety belts. If all such children were properly restrained by seats or belts, we estimate that another 200 to 300 could be saved each year. Our constant goal must be to reduce the numbers of deaths and injuries, and the pain and grief they represent for the children and their parents. We must increase the correct use of seats and belts. We believe that your hearing will help spread the word.

Our efforts on child passenger safety go beyond the issuance of standards and the promotion of safety seat use. Under the Vehicle Safety Act, we have the authority to test the seats for compliance with the standard and to require the manufacturers to remedy seats that do not comply with the standard. In addition to enforcing the standard, we have the authority to investigate seats for defects that relate to motor vehicle safety. If we determine that such a defect exists, or if the manufacturer makes such a determination on its own, the Act requires the manufacturer to remedy the defect.

We've made the child seating standard a priority in our compliance testing program. In fact, the compliance program for seats is second in size

only to our crash testing of automatic protection systems in passenger cars. We test all new safety seat models as they are introduced and conduct periodic retests as well. Since 1981, we've tested more than 600 seats, representing some 200 seat models. Some of these tests have resulted in test failures which, upon further examination, do not prove to have safety significance. Other failures have led us to begin investigations, in which we request the manufacturers to show us their test data and any other information relevant to the compliance of the seats. Of the 36 investigations which we have begun, 12 have resulted in recall campaigns affecting two million seats. The manufacturers have initiated three additional compliance recall campaigns, affecting an additional 1.5 million seats.

In our investigation of potential defects in child seats we have opened 19 investigations since 1981, seven of which led to recalls affecting 1.3 million seats. Four additional defect recall campaigns by manufacturers resulted in the recall of one million seats.

In all, almost six million child safety seats have been the subject of safety recalls since 1981. I am providing the Subcommittee with a complete list of the seats recalled. In each case, we believe that the safety performance of the seat was sufficiently impaired that the defect or noncompliance should be remedied. However -- and this is a point that needs to be stressed -- we believe that each of the seats tested is still capable of giving a child significant protection in a crash. Of all the recalls, only three (about one percent of the total seats recalled) involved a test failure in which the restraint itself failed during the dynamic test. Even these restraints would have provided sufficient protection that it would have been better to use them than to let a child ride unrestrained. We therefore have a double message for parents who own a recalled seat: get the seat remedied, but

keep your child in it until you do. The largest safety risk by far is for your child to ride unrestrained.

The principal question about these recalls is how effective they've been in securing the remedy of the seats. Of the six million seats subject to recall, only a small percentage have been remedied. Although low rates are typical of all vehicle equipment recalls, we would like to think that child safety seats would be a special case. Apparently not. Except in one case in which a vehicle manufacturer had sold the seats with the vehicle, and therefore had a list of all owners, and two cases in which a significant percentage of the seats produced were still in warehouses, the rate of remedy reported to NHTSA has been no more than five percent. In some cases, parents learning of a recall may be able to make the appropriate corrections on their own. In most cases, however, the reasons for the low rates are only speculative. It may be that parents never learn of the recall, or that they don't understand the reasons for the recall, or that they do understand the reasons for the recall but disregard them, or that they don't know how to contact the manufacturer. In some cases, the recall may occur after a child has outgrown the seat. It is likely, too, that some parents are not completely convinced of the value of safety seats and are not motivated to take corrective action. Whatever the reason, thus far the manufacturers' recalls have not led to a high percentage of remedies.

What can we do about this? Owner registration is one possible answer. We have granted a petition for rulemaking on this subject from the Center for Auto Safety and will begin rulemaking to explore the potential benefits of registration. We have experience with registration systems for motor vehicle tires which may prove useful in assessing the potential of safety seat registration systems.

Greater public information is another possible answer. There's no such thing as too much publicity when the issue is safety. However, we are concerned that any publicity about problems with specific seats must be limited to those seats and not create doubts about seats in general. Recent experience causes us concern. In the aftermath of the Center for Auto Safety's press conference last December, we received over 30,000 additional calls to our hotline about child seats. We found that many of the callers were asking whether it was safe to use child safety seats at all.

The press conference focused on specific seats, notably the Evenflo One-Step, but we wonder how effective the focus has been. Of the thousands of calls we received, and the thousands of owner questionnaires we mailed out, only five owner complaints have involved the problem alleged with that seat. We are examining the information the Center provided us after their press conference, but the limited response from One-Step owners leaves open the question of how effective any potential recall campaign would be.

In short, Mr. Chairman, we agree that the recall rate should be higher, and we are looking for ways to raise it. I hope that this hearing may provide some useful ideas. From discussions with the Consumer Product Safety Commission, we know that their experience with safety recalls of juvenile products also shows a low rate of remedy. This may be a problem that should be addressed in a broader context. We intend to raise the possibility of broader actions as part of our response to the Center's petition.

Since the scope of the hearing goes beyond child safety seats to embrace the whole subject of child passenger safety, there is another issue that I want to mention. The issue is what to do about children who have outgrown their safety seats, but who are still too small to be secured optimally by the vehicle's safety belts. These children are in a transitional stage, and

questions have been raised about the best way to protect them. Let me make one thing clear: we do not regard non-restraint as an option. A child who is too large for a safety seat should be restrained by a properly secured safety belt. If the belt is used, the child should wear it snugly across the lap, not across the abdomen. If the belt is a lap/shoulder belt combination, the shoulder belt can be worn unless it cuts across the child's face or neck, in which case it should be placed behind the back. There are questions about the relative effectiveness of lap-only belts compared to lap/shoulder belt combinations, but the debate on that question should not obscure the fundamental point that restraining a child with either type of safety belt is far better than allowing the child to be unrestrained.

In closing, I want to return to the theme I announced at the beginning: the key to improving motor vehicle safety for children is to increase the percentage of children who ride restrained -- if they are infants, in infant safety seats; if they are small enough for child safety seats, in the seats; and if they are too large for the seats, in a properly secured safety belt. To make this happen, and to protect the estimated 40 percent of children who are not being properly protected, will require efforts from many people -- parents, doctors, teachers, police officers, legislators, manufacturers, media representatives, safety advocates, and government officials at all levels.

In the fall of 1988 we held public hearings here and in Chicago to get ideas and advice from the medical and safety groups concerned with child safety. The result of those hearings is a "Child Passenger Safety Plan," copies of which I am submitting for the Subcommittee's information. The plan points to ways to improve public information, to provide better technical assistance to safety advocates, and to improve the enforcement of child passenger protection laws. It also proposes research aimed at improving the

performance of child safety seats. We hope that the plan will serve as a blueprint to help us reduce the toll of children injured and killed in motor vehicle crashes. It will come as no surprise to you that the cornerstone of the plan is the effort to increase the number of children who are properly secured in child safety seats or safety belts.

Mr. Chairman, we've got to reach the point where allowing our children to ride unrestrained in motor vehicles is as unthinkable as inviting them to play with matches. Children in cars must ride buckled. That's the message we will be sending during Child Passenger Safety Week, which takes place next week. That's the message that I hope your hearing will send as well.

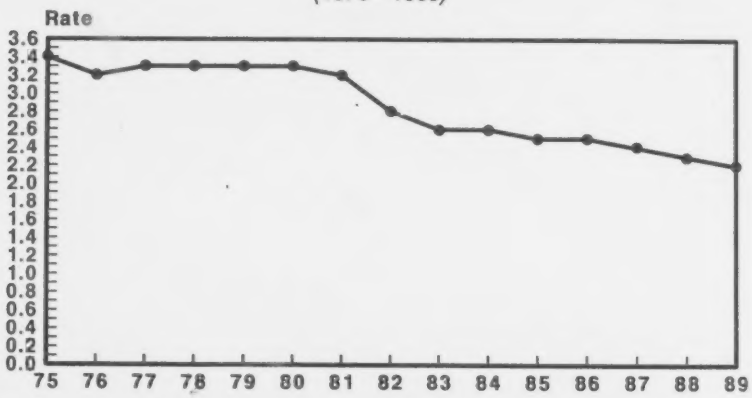
This concludes my prepared remarks. I will be glad to answer any questions the Subcommittee may have.

ESTIMATED EFFECTIVENESS OF SAFETY BELTS COMPARED TO NO BELT USE

Front Seat Lap Belts	35%
Front Seat Lap/Shoulder	45%
Rear Seat Lap Belts	32%
Rear Seat Lap/Shoulder	41%
Infant Seats	69%

U.S. DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety Administration

Fatality Rate
(1975 - 1989)



NHTSA PETITION PROCESSING

NPRM'S/FINAL RULES ISSUED BY 6-MONTH INTERVALS

Year	Jan-Jun	Jul-Dec	Total
1989	31	45	76
1988	41	35	76
1987	30	31	61
1986	40	32	72
1985	49	41	90
1984	28	42	70
1983	28	26	54
1982	34	44	78
1981	35	38	73
1980	34	34	68
1979	32	28	60
1978	30	43	73
1977	28	17	45
1976	32	33	65
1975	49	42	91
1974	47	31	78
1973	32	36	68

SOCIETAL COSTS OF MOTOR VEHICLE CRASHES (1986)

Fatalities	$16.5 Billion
Injuries	$17.5
Property Damage Only	$29.6
Other (Insurance Related)	$10.6
Total	$74.2 Billion

DRUNK DRIVING ANNUAL LOSSES

23,000 Killed -- Half of All Fatalities

500,000 Injured

40,000 Seriously Injured

$12 Billion Societal Costs

* This is the real menace on our roads

FATALITIES IN 1988

Occupants	Number	Percent
Passenger Cars	25,802	55%
Light Trucks and Vans	8,306	18%
Motorcycles	3,661	8%
Medium and Heavy Trucks	913	2%
Other Vehicles	458	<1%
School Buses	38*	<1%
Non-Occupants		
Pedestrians	6,869	15%
Others	1,046	2%
Total	47,093	100%

Note: *Includes 27 occupant fatalities from Carrolton, Kentucky bus crash. Average is 13 per year.

SERIOUS INJURIES IN 1988
A MAJOR PUBLIC HEALTH ISSUE

Occupants	Number	Percent
Passenger Cars	340,000	67%
Light Trucks and Vans	67,000	13%
Motorcycles	31,000	6%
Medium and Heavy Trucks	6,000	1%
Other Vehicles	18,000	4%
School Buses	<1,000	0%
Transport Buses	<1,000	0%
Non-Occupants		
Pedestrians	32,000	6%
Others	14,000	3%
Total	508,000	100%

ESTIMATED LIVES SAVED IN 1988

Safety Belts	4,500
Minimum Drinking Age Laws	1,148
Motorcycle Helmets	608
Child Restraints (Safety Seats & Belts)	250

UNDERSTANDING THE PROBLEM (1988)

	Children (<10)		All Ages		
	Fatalities	Serious Injuries	Fatalities	Serious Injuries	Cost $ (Billions)
Frontal	347	5,500	12,678	152,000	6.5
Side	330	4,000	8,253	97,000	4.2
Rear Lap Belt	63	500	205	3,500	0.1
Child	98	1,500	98	1,500	0.05

CHILD SAFETY SEAT RECALL ACTIVITY (CY 1981 - 1989)

	Number of Investigations	Number of Recalls	Number of Items Recalled
Office of Vehicle Safety Compliances	36	12	2.0 Million
Office of Defects Investigation	19	7	1.3 Million
Manufacturer Initiated Recalls		7	2.5 Million
Totals	55	26	5.8 Million

U.S. Department
of Transportation
National Highway
Traffic Safety
Administration

The Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

MAR 22 1990

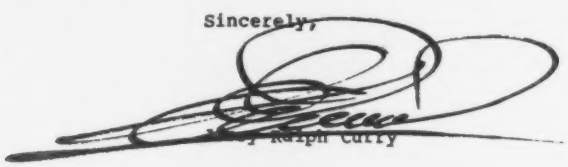
The Honorable Richard H. Bryan
Chairman, Subcommittee on Consumer
Senate Committee on Commerce, Science
and Transportation
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for the opportunity to provide additional information on child safety seats and for your kind words about our presentation at the Subcommittee's hearing. I can assure you that I intend to keep the agency's safety programs on track. We've made a good beginning, and I appreciate your encouragement.

I am enclosing our answers to your follow-up questions for the record of the hearing. I hope you will find our answers useful in your oversight of our compliance program. If you have additional questions, I will be glad to provide assistance to you at any time.

Sincerely,



Ralph Curry

Enclosures

Get it together!
SAFETY BELTS SAVE LIVES

Question 1.

Please describe the clearance process for decisions made within the Office of Vehicle Safety Compliance and the Office of Defects Investigation. Your hearing testimony stated that decisions of each office about pursuit of a defect or compliance test failure involve more than one person. Please list the position titles of all individuals involved in such decisions, and briefly describe their role in the decision-making process. Include in your answer the role of the Office of Chief Counsel and a description of the circumstances in which the Chief Counsel's Office would decline to pursue a case recommended by the Office of Vehicle Safety Compliance or the Office of Defects Investigation.

Answer:

With respect to the enforcement of compliance with Federal motor vehicle safety standards, the Office of Vehicle Safety Compliance (OVSC) uses the following procedure. When a test failure occurs at a laboratory, the Project Engineer at the test laboratory is required to notify the agency by phone within 8 hours and follow up the call with a written summary which contains all pertinent details of the failure. After the agency receives the written summary, the information is first reviewed by the NHTSA staff engineer who is responsible for the overall management of the compliance program for the standard in question. This engineer prepares a failure report which lists the identifying information about the vehicle or item of equipment and describes the details of the failure. The failure report is forwarded through the Branch Chief and Division Chief to the Office Director. The manufacturer is notified of the failure by telephone, usually within two days of the agency's receipt of the written summary from the test laboratory. A meeting is held among the four individuals described above to discuss all aspects of the failure including the margin of failure, the equipment and instrumentation tolerances, any possible problems with the testing technique, and the potential impact on safety. At the meeting, a decision is made as to the appropriate course of action. The possible actions include, but are not limited to, opening a formal noncompliance investigation (NCI), opening an inquiry and sending an information request (IR), conducting retests to gather additional information, or determining that the failure will have no adverse safety consequences and should not be pursued. In any event, the reasons for the action to be taken are fully documented.

If a formal investigation is opened, an information request is sent to the manufacturer asking for compliance test data, quality control records, design changes, and any other information that might be pertinent to the failure. The investigation process normally includes engineering meetings with the manufacturer, review of manufacturer test data, and possible government retests.

OVSC considers all pertinent information to determine if the product is in noncompliance with Federal standards. If the available information supports a noncompliance finding, the manufacturer is requested to conduct a notification and recall campaign to correct the noncompliance. If a noncompliance cannot be demonstrated, or if OVSC subsequently determines that the noncompliance is unlikely to have any adverse safety consequences, the case is closed on the basis of engineering or prosecutorial discretion. Legal issues are fully coordinated with the Office of Chief Counsel during the course of the investigation.

With respect to the investigation of possible safety-related defects, the Office of Defects Investigation (ODI) conducts three levels of investigations. The first level, the Preliminary Evaluation (PE), requires the signatures of the Branch Chief, Division Chief, and Office Director to open or close or to upgrade to an Engineering Analysis (EA). The EA, the second level, also requires the signatures of the Branch Chief, Division Chief, and Office Director to open or close. In addition, closing an EA requires the concurrence of the Associate Administrator for Enforcement.

Upgrading an EA to a Case (which is also known as a "formal investigation") requires the signature of the Office Director with the concurrence of a Defect Review Panel which consists of representatives from the Offices of the Administrator, Chief Counsel and ODI. It also requires the concurrence of the Associate Administrator for Enforcement. The Director of the Office of Defects Investigation may close a Case with the concurrence of the Associate Administrator for Enforcement and the Chief Counsel or the Assistant Chief Counsel for Litigation.

If the results of an investigation conducted by either OVSC or ODI lead the Associate Administrator for Enforcement to believe that a motor vehicle or item of equipment does not comply with a safety standard or contains a defect which relates to motor vehicle safety, he may make an "Initial Determination" pursuant to section 152(a) of the Vehicle Safety Act. After the manufacturer and other interested persons have had the opportunity to present data, views, and arguments on the issue, the Administrator may make a "Final Determination" of a noncompliance or safety-related defect pursuant to section 152(b) of the Act. At that point the manufacturer would be ordered to furnish notification to the owners of the affected vehicles or equipment and to remedy the noncompliance or defect at no charge.

You also inquired about the role of the Office of Chief Counsel in the decision-making process for enforcement investigations. For the most part, that office's role is to provide continuing legal advice on a case-by-case basis on a wide variety of issues, including but not limited to the proper interpretation of statutes and regulations and the sufficiency of evidence to support a determination of a noncompliance or a safety-related defect. In addition to this general coordination, the Chief Counsel's office is required to concur in the closing of a formal investigation (or Case) by ODI, and in all initial and final determinations of a defect or noncompliance.

Because of the active involvement of the Chief Counsel's office at all stages of enforcement investigations, there has not been any instance in recent years in which the Chief Counsel's office has "decline[d] to pursue a case recommended by" OVSC, and there has never been any instance in which the Chief Counsel's office has declined to pursue a defect investigation that ODI wished to pursue. The legal and enforcement offices consult with one another regularly on the most effective ways to utilize their available resources so as to achieve maximum safety benefit on their respective programs.

Question 2.

On February 6, NHTSA issued a press release cautioning parents about the use of certain child safety seats manufactured by the Strolee Company of California, which I understand is no longer in business. However, as I read the record, the Strolee GT-3000 failed a compliance test in 1987, and NHTSA opened a compliance investigation, but when the manufacturer went out of business nothing further was done. Please explain why no press release about the compliance test failure was issued at the time the test failure occurred.

Answer:

It has never been NHTSA's policy to issue a press release at the time of an initial test failure. If the agency decides to issue a press release, it does so when the manufacturer undertakes a recall or the agency determines that a recall should be undertaken, not when it first receives the report of an initial test failure or defect. Reports of test failures are included in the monthly listing of investigations available through NHTSA's Office of Public Affairs.

We believe the following narrative of the Strolee investigation will provide the context for our press release in this case.

In March 1988, the Strolee GT-3000 child safety seat was tested to the requirements of Federal Motor Vehicle Safety Standard 213 by Calspan, the test laboratory under contract with NHTSA. In each of the four dynamic sled tests where the seat was adjusted in the infant (rear facing) position, significant noncompliances were noted with the seatback angle requirement of section S5.1.4 of FMVSS 213. The angles measured during these tests (85.5, 80, 84, and 89.5 degrees) were significantly greater than the maximum angle of 70 degrees permitted by the standard. In addition to these failures, the buckle released during two of the tests and a minor labeling discrepancy was noted.

In keeping with standard office policy, we notified the manufacturer of the failure by telephone on March 15, 1988. After further review, we opened an investigation on April 1, 1988, and sent Strolee a follow-up information request letter for certification data on April 20, 1988. After a number of phone calls to Strolee officials produced no results, a second letter requesting information was sent on June 13, 1988. The manufacturer provided a partial response to agency requests on June 24, 1988. After review of the partial response and several more phone contacts, the agency sent Strolee a request for additional information on August 18, 1988. After a number of follow-up phone calls with company officials some additional information was provided on October 21, 1988.

Since it was apparent that Strolee was not going to willingly provide all of the requested information, a Special Order, which compels response, was prepared. However, that order was never sent because Strolee ceased

operations. It filed for Chapter 11 bankruptcy protection in November 1988. After consultation with counsel, a decision was made to delay further action on the special order until the bankruptcy proceeding was resolved. Over the next few months, a number of contacts were made with Strolee creditors to determine if any assets were available to recall the noncomplying seats.

The "Strolee" trademark and some of the company's assets were purchased by Phoenix Pram, Inc. through a foreclosure sale. However, under applicable law, the purchase of assets did not transfer Strolee's obligations under the Safety Act to Phoenix Prams. Since the original manufacturer was no longer in existence, and there was no entity that could be compelled to conduct a recall, a decision was made to close the investigation. However, NHTSA decided to advise the public of the noncompliance through a press release. To avoid confusion, the agency decided to issue the press release in conjunction with a release informing the public about a safety related defect in other Strolee models. The press release was issued on February 6, 1990.

Question 3.

The report of the Center for Auto Safety on child safety seats emphasized concerns about the Evenflo One-Step. The Center for Auto Safety claims that the latch of this seat can give the false impression that it is closed when it is not, so that in a crash it could release and fail to restrain the child. Was this problem detected by NHTSA's tests? If not, what has NHTSA done with respect to this seat since receiving the Center for Auto Safety's information?

Answer:

In regard to the question about "false latching," NHTSA conducted tests on the Evenflo One Step in FY82 and FY83 on that aspect of performance, with passing results. It should be noted that these tests were conducted for information purposes only, since our child safety seat standard (FMVSS 213) did not contain provisions relating to false latching at that time. The provision was added to the standard in 1986 by incorporating the requirement applicable to seat belt assemblies under FMVSS 209. Based on the agency's determination that the best use of its testing resources would be to focus on the dynamic test requirements, the testing program after FY83 was devoted primarily to those requirements. We tested the One Step to the dynamic performance requirements of the standard in FY85 and again in FY88 and found that it passed each time.

We had not received any previous reports of false latching involving the One Step prior to the CFAS petition and press conference of December 15, 1989. We subsequently received and reviewed the 13 allegations in their petition for a defect investigation, the additional 16 reports included in their supplemental letter to us dated December 21, 1989, and 8 reports that we received directly from consumers through direct correspondence or via the Auto Safety Hotline. In addition to contacting these owners and interviewing them about their reported problems, we are attempting to obtain several of their seats to better understand their specific complaints. We have also purchased a number of new seats to conduct false latching tests.

Based on all available information, we granted the CFAS petition on February 6, 1990, and opened a safety-related defect investigation (EA 90-013) of the One Step. We have also decided to open a noncompliance investigation (NCI 3107) of that model. One aspect of these investigations will be to determine if the buckle's performance degrades during use. Of course, we cannot pre-judge the outcome of these investigations.

Question 4.

NHTSA appears to agree that the rate of return of recalled child safety seats is unreasonably low, often between 1% and 5%, and you have granted a petition to consider rulemaking in this area. Please provide a timetable for completion of that rulemaking process and a description of the issues to be covered in any rulemaking. Include in your answer a statement of whether this rulemaking process will consider suggestions made by the Center for Auto Safety such as: issuance by NHTSA of press releases at the time of a recall; requirements that manufacturers take out newspaper and broadcast advertisements and conduct direct mail campaigns to all parents of children in the relevant age brackets; and requirements that manufacturers conduct training sessions for retailers to ensure the retailers's awareness of the recall and the remedy proposed.

Answer: As a preface to answering your question ~~about~~ the rulemaking process, we want to give you our latest information on safety seat recalls. In response to the Subcommittee's inquiry, we have conducted a complete review of the response rate to safety seat recalls. Although the review clearly shows that the response rate needs to be improved, it reveals that the rate is not as low as we had believed it to be and, in fact, is significantly higher than CFAS stated in its December report. When the most recent information is included, the completion rate is 22 percent for the 14 recalls on which we have completion data and which have run for the full 18 months covered by the agency's reporting requirements. Based on the most recent completion reports received, a total of 839,000 seats are reported to have been recalled, rather than the 300,000 estimated by CFAS.

Completion rate reports for all safety recall campaigns (including equipment items and vehicles) are submitted to NHTSA on a quarterly basis. The agency reviews these reports and contacts the manufacturers when information is missing or completion rates are unduly low. CFAS requested completion rate reports last September and again in early November, which the agency provided. Additional completion rate reports, however, were submitted by manufacturers after the CFAS request, both as routine reports and in response to follow-up inquiries. These additional reports were not considered in CFAS's completion rate estimate.

In its report, CFAS estimated completion rates for 11 out of the 22 recalls. Actual completion rate reports are now available for nine of the recalls for which CFAS estimated completion rates. In six of the nine, the actual completion rates are higher than the estimates made by CFAS. In some cases the differences are substantial. For example, CFAS estimated a Cosco recall (86E-009) at three percent when the actual completion rate reported to us is 50.48 percent. An Evenflo recall (89E-017) estimated by CFAS at three percent is actually 68.26 percent.

In addition, in calculating the completion rate of 5.48 percent, CFAS included all recalls regardless of how long the recall had run. Eight of the 22 recalls cited in their analysis had not run the six quarters for which reporting is required. For those incomplete recalls, completion rates will predictably go up as more seats are fixed or replaced.

Although completion rate reports have always been available to the public on request, we have recently established a public file on completion rate reports in our Technical Reference Division so that the information is available without the need for a formal request.

Although the actual child safety seat recall completion rate is much higher than the CFAS estimate, NHTSA believes that there is room for improvement and therefore is seeking ways to increase it.

As part of its process, the agency will consider the suggestions made by CFAS which you listed in your question. However, some of these suggestions, such as the issuance of press releases, the use of newspaper advertising, and the training of store employees will be considered outside the context of rulemaking. It is our view that these measures are better considered on a case-by-case basis rather than through rulemaking.

Our current rulemaking efforts relate to other aspects of the CFAS petition. In granting the petition (on January 25, 1990), we indicated that the rulemaking would address the issue of child restraint owner registration. Currently, the agency is exploring various alternatives to achieve the objective of registration. The issues to be addressed in that rulemaking include the form of any registration requirement, the design and content of any registration card, and ways to maximize the registration of owners other than the original purchasers. We are talking to other Federal agencies, such as the Consumer Product Safety Commission and the Food and Drug Administration, to learn from their experience how to implement the most effective registration system.

The agency plans to develop a Notice of Proposed Rulemaking addressing child restraint registration by this summer. On the basis of the comments received to that NPRM, the agency will take subsequent rulemaking action. We anticipate that a final rule will be issued by the end of this year.

Question 5.

In responding to written inquiries from the House Energy and Commerce Committee, you stated that NHTSA will investigate every "significant" instance of noncompliance with the Federal standard for child safety seats. How does NHTSA define "significant"?

Answer:

The Office of Vehicle Safety Compliance (OVSC) does not use rigid criteria in determining whether a test failure with a particular aspect of a Federal motor vehicle safety standard warrants the opening of a formal noncompliance investigation (NCI). Rather, OVSC utilizes its professional engineering judgment in each case. As described in our answer to your first question, upon receipt of notification from the contractor that performed the test that there has been a test failure, staff and supervisory personnel of OVSC promptly review the available information to determine the potential safety consequences of the failure. Where those consequences seem minimal, e.g., when the label on a can of brake fluid does not contain the complete address of the manufacturer, OVSC will not open an NCI, since the benefits, if any, of a notification and recall campaign would be outweighed by the time and effort that NHTSA would have to expend to persuade or order the manufacturer to conduct such a campaign. In such circumstances, the manufacturer is advised of the noncompliance, in the expectation that it will modify its product prospectively to eliminate the noncompliance.

The discretionary determinations of whether to proceed to an NCI, to open an "inquiry" by sending an information request, or simply to take no further investigatory action are made on a case-by-case, using the engineering and safety expertise of the officials of OVSC. This allows OVSC to place priority attention on test failures and possible non-compliances that appear to present the greatest safety problems. It is not possible to establish firm criteria that would apply in all circumstances to measure the safety "significance" of test failures. We also believe this approach has proven effective in practice. Our non-compliance investigations have led to many recall campaigns of vehicles and equipment items over the years, which have corrected a number of safety problems. Conversely, we are not aware of any evidence suggesting actual adverse safety impacts resulting from the agency's professional judgment on opening non-compliance investigations--that is, no reports of death or injury resulting from those instances where OVSC decided not to open a formal investigation based on a compliance test failure.

Question 6.

How many NHTSA employees are assigned to work on child restraints in the Office of Vehicle Safety Compliance? How many are assigned to this equipment in the Office of Defects Investigation?

Answer:

The Office of Vehicle Safety Compliance (OVSC) operates its compliance testing program through contracts with outside testing laboratories, and uses its engineering staff to monitor the work of the test labs. The rate of failure in the testing program is usually very low, so that a staff engineer is typically responsible for several standards. In the case of the standard on child safety seats, the testing program is quite extensive (the second-largest in the agency, after the crash-testing program for the occupant protection standard) and often requires a staff engineer to work full time on it. The engineer responsible for the child safety seat program has had that program as his primary responsibility for the past 9 years, although he has also been responsible for other enforcement programs during that time. The branch chief, the division chief, and the Director of OVSC also devote significant time to issues of child safety seat compliance.

To conduct a full test of a child safety seat under Standard 213, a test lab will ordinarily need a team of 11 engineers and technicians. In a typical year, a lab would conduct about 25 to 30 compliance tests for NHTSA, requiring an average of 7 days per test.

Within the Office of Defects Investigation (ODI), a variety of staff members are involved in child safety seat issues along with other duties. Since it is not possible to accurately assess the proportion of time spent on child safety seat issues alone, the following lists those who are involved and their contribution to child safety seat issues in ODI.

Ten Auto Safety Hotline contact representatives respond to callers asking about a variety of issues on child restraints. Callers report defects, request recall information, and seek safety seat literature. Callers are also referred to manufacturers to solve problems when appropriate. In addition, six specialists maintain automated and manual databases which include owner complaints, recall data, and investigative files for child safety seats and other safety defect issues within ODI. Three safety defect specialists review all reports of complaints and manufacturer service bulletins relating to child safety seats and other defect issues to help determine whether investigations should be opened. Of the 14 engineers and investigators assigned to technical investigations, three are routinely assigned to child safety seat investigations. Three other safety defect specialists review all recalls, including those relating to child safety seats, for recall adequacy and to review completion rates.

In addition, support staff and supervisors are involved at various stages and contractors provide support for a variety of safety defect activities, including testing.

By way of background information, as of this date, NHTSA has recorded 30 recalls involving 6.5 million child seats. Of these, OVSC is responsible for 2.1 million, ODI is responsible for 1.9 million and the manufacturers' voluntary recalls accounted for 2.5 million (1.5 million for noncompliance with Standard No. 213, and 1 million for safety-related defects).

Question 7:

I understand that following issuance of the Center for Auto Safety's report on child safety seats you wrote to the board of directors of the Advocates for Highway and Auto Safety suggesting that they "separate" themselves from the actions of the Center for Auto Safety, and questioning the credibility of the Center for Auto Safety. Please explain why you believe such a response by the NHTSA Administrator to be necessary and appropriate given that NHTSA was free to respond to the report on the merits of the issue raised?

Answer:

A probable outcome of CFAS's report and press conference was that some parents would react by taking their children out of seats which they believed to be unsafe. If the children thereafter rode unrestrained, they would be at much greater risk of injury or fatality in a crash. It is my strong belief that responsible safety advocates should want to separate themselves from an organization which takes an action that is detrimental to highway safety. The safety community consists of a network of organizations, such as the Advocates for Highway and Auto Safety, each serving a somewhat different constituency. I wanted them to consider the safety consequences of CFAS's actions and, if they agreed with us, to inform their constituencies. I believe this is an effective way for us to counteract activities that have a negative impact on safety.

Senator BRYAN. General, we thank you very much for the information that you provided and the charts that you and your staff have prepared.

As I indicated in my opening comments, the report issued by the Center for Auto Safety has engendered a great deal of controversy within the safety community, and I want to focus a few questions on that, if I may, General.

But before doing so, one of my old favorites. At the time of your confirmation hearing, we did discuss the side impact standard.

General CURRY. Yes.

Senator BRYAN. And your chart rather clearly points out that, insofar as reducing children injuries, that would be a significant factor in improving the safety of automobiles.

General CURRY. Yes, sir.

Senator BRYAN. Before you arrived, this has had a gestation period that is longer than the space program's effort to launch a man into space and to get a man on the moon.

Can you share with us some time when we might feel the Earth tremor, the ground cleave, lightning strike, and this standard might become a reality? That would be very encouraging, I think, for a lot of the safety advocates here this morning.

And I can tell you, this chairman would be most gratified if you had some time frame that you could share with us.

General CURRY. Mr. Chairman, because of the interest of your committee and yourself specifically, we have moved rapidly in the last six months toward some side impact regulation.

We are currently testing the last dummy. There are three dummies involved. We have tested two. The third one is being tested now. Tests are going very well. I will be flying out to our proving ground in Ohio tomorrow afternoon to discuss some more of the final results of these tests. We are very happy with them.

We were having some discussions and difficulties with General Motors in the way they were approaching it. I have personally met with Bob Stempel, the President of General Motors. We have talked this through. We are now both on the same time schedule. We are now moving in the same direction.

He wanted me to assure you that General Motors is no longer, if they ever were delaying, will no longer be part of that delay. This calendar year we will have a notice of proposed rulemaking on side impact protection, and we will see to it that it does not bog down in the process and that it does move through the system to a final rule.

Senator BRYAN. General, those are reassuring words. So we will see it some time this year then?

General CURRY. Yes, sir.

Senator BRYAN. That is good. The sooner the better.

Let me now focus, if I may, on Mr. Ditlow's report. The Center for Auto Safety makes the allegation—and I think we have to focus in on this, General, and if you do not have the answer your staff there may be able to provide it—that out of 27 million child restraints sold over the past eight years, over half are in use despite being recalled or failing compliance tests.

He goes on to say at least 8 million failed safety compliance tests, but were not investigated or recalled.

Let me give you a chance to ponder that, if I may, because we have been joined by a former chairman of the subcommittee, Senator Gore. And let me defer to him if he would care to make an opening statement at this time.

Senator, we would be delighted to hear from you.

OPENING STATEMENT BY SENATOR GORE

Senator GORE. Thank you very much.

I do not want to interrupt the flow of the hearing. Let me just make a very brief statement.

Mr. Chairman, first of all I want to congratulate you on organizing and holding these hearings. I think we have got to make progress in the battle to save children's lives in automobile crashes. And we are going to deliver a simple, clear message next week on this subject, which we hope will be heard in every city and town in our country.

And as we recognize National Child Passenger Safety Awareness Week, that message will be: If child restraint devices work, then every child under the age of four should be protected by these restraints.

I have been paying particular attention to this issue for the last 14 years, mainly because some constituents of mine when I was a freshman member of the House of Representatives really began the whole nationwide struggle on this issue. Dr. Bob Sanders and his wife Pat came to every meeting that I had throughout my Congressional district in middle Tennessee and told me about this issue.

And other Tennesseans, Dr. Sam Carney and Dr. Ed Caldwell, took the initiative, with the Sanders' in the lead, and passed a law in Tennessee that became a model for the other 49 states.

Frankly, when I first heard of their efforts, Mr. Chairman, I thought to myself: Well now, is there going to be tremendous resistance on the part of individual parents to having a government role in trying to require the use of these restraint devices for children?

But when I saw the number of lives that were being lost unnecessarily, the number of injuries that were unnecessary, and then when all of us saw the dramatic success of the simple initiatives that began in Tennessee and have now spread nationwide, it became obvious to everyone that this was a tremendously important way to save children's lives.

And parents have not only reacted well, they have taken the message to heart, and these practices are spreading all over. Rhode Island became the second state to pass such a law, and in 1984 I worked with several of my colleagues in the House, where I served at that time, on the Child Highway Safety Act, requiring states to use at least at least eight percent of their highway safety money for this purpose.

By 1985 all 50 states plus the District of Columbia had enacted laws just about like the one that Tennessee enacted in 1977. The results have been really overwhelming.

In our state, where we began, the studies have gone on the longest and the studies show that unrestrained children are eleven

times more likely to die in an accident than children in restraint devices.

In one study of the first six years under our State's law, 81 children under the age of four died in traffic accidents. Do you know how many were in child restraint devices? Two out of the 81.

Well, those dramatic results are now taking place all over the country. And we need to do more to make certain, in the words of the American Academy of Pediatrics, "that the first ride is a safe ride." A nation that can send home every newborn a supply of infant formula can make certain that every newborn also leaves the hospital in an approved child restraint device.

It is not only a question of saving lives. It is a question of saving money as well. It costs a lot less to make certain every newborn child in the U.S. receives a child restraint than we now spend patching up the ones that do not use them. And those figures are literally absolutely correct.

So Mr. Chairman, let me again congratulate you on calling today's hearing. Your timing could not be better, and it is characteristic of the way you have conducted the business of this subcommittee.

I look forward to examining the serious charges brought against the National Highway Traffic Safety Administration's program in this area. The report of the Center for Auto Safety points to extremely serious problems in the recall program that have to be fixed and raises questions about the enforcement of Federal standards, and I think we have got to really do more to make the dream of the few pediatricians in Tennessee a reality that can help every American family and every American child.

Mr. Chairman, with your permission and the permission of the subcommittee, I would like to include in the record [1] after my statement an editorial and an article from the Journal of the American Medical Association, an editorial by Dr. Bob Sanders and an article by experts at Vanderbilt University about the experience that Tennessee and the country has had with these child restraint devices.

I appreciate the patience and forbearance of our witnesses in letting me come out of order and make those statements.

Thank you, Mr. Chairman.

Senator BRYAN. Senator Gore, thank you very much for your leadership and your interest.

Senator Gore, before you came in we were beginning to open up a line of inquiry on the Center for Auto Safety study, and let me just reframe the question, General.

The thrust of what the Center for Auto Safety contends is that there are millions of restraints that are sold out there, some 27 million over the past eight years, and that half are in use despite being recalled or failing compliance tests, and at least eight million failed safety compliance tests but were never investigated or recalled.

Now, if true that is a very serious charge, and I would like to have you respond to it.

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[1] Sec JAMA, Nov. 9, 1984, Vol. 252, No. 18, pp. 2613-14, and pp. 2571-74.

General CURRY. It is a serious charge. Bob Hellmuth on my right will respond in detail.

A general comment on it is that we really do not believe that a news conference is a productive forum for the exchange of scientific information, and we would like to cooperate very much with the Center for Auto Safety. We would hope that in the future we can do this, but in a more private forum where we can have a free and open exchange of ideas.

And now we will give you some details.

Senator BRYAN. Whatever the format was, we are not going to get involved in deciding how the Center for Auto Safety wants to release their information. I think what the public is interested in is the allegation.

General CURRY. That is fair enough.

Senator BRYAN. I mean, whether they shared this privately, publicly, on the occasion of Child Passenger Restraint Week or whatever the timing was, is there truth to it?

And whomever you want to answer that question, General. I know you have only been on board for a few months.

General CURRY. That is right. Bob.

Senator BRYAN. The last name again, sir?

Mr. HELLMUTH. Hellmuth.

Senator BRYAN. Hellmuth, Mr. Hellmuth, all right.

Mr. HELLMUTH. The simple answer to the allegations, Mr. Chairman, are in fact that in every case where there has been a failure discovered in our compliance test program that had any effect at all on child safety, we have pursued it and we have gone to a recall campaign.

Our safety compliance program tests virtually every brand of new seat that is brought onto the market, plus we go back and recycle seats that have been tested in previous years to make sure we are covering the entire scope of seats on the market. We have performed 649 different compliance tests at this time, covering 200 different models of seats.

During those 649 tests, we have discovered 149 failures. Most of those failures involved very minor parts or insignificant parts of the standard. The standard covers all aspects of performance of the seat. It covers labeling, dimensional requirements, plus dynamic performance requirements.

The most important question, of course, is how well does this seat perform during a dynamic test which simulates a crash.

Senator BRYAN. This is the 1981 standard that was developed, is that right?

Mr. HELLMUTH. Yes, it is.

Senator BRYAN. Okay.

Mr. HELLMUTH. And during those years we have had any number of failures. Most are very insignificant: the size of the type on the label; whether the buckle will corrode after being in a salt spray for many hours; minor dimensional type problems.

But those problems that could result in any injury to the child have been pursued and we have had 36 investigations, which resulted in 12 recall campaigns that have now covered two million child seats.

So we think we have done a very effective job on this particular problem. We have answered this charge in the response to Representative Luken, which you have probably been given a copy of.

Senator BRYAN. Yes.

Mr. HELLMUTH. And we would be glad to provide for the record or any forum you so desire a response to each and every one of these failures, if that would be your pleasure.

Senator BRYAN. Mr. Hellmuth and General Curry, I take it that the information that you have in your records in terms of the various testing that you have done on the various child restraint systems that you have tested, the results of those tests, the efforts undertaken following those tests, whether you have done nothing because in your judgment—and I practiced law once upon a time; I understand the disclaimer that you are making, if it has any relevance to child safety. That is a judgmental call.

Mr. HELLMUTH. That is correct.

Senator BRYAN. And reasonable people may differ on that.

But the recall effort, the notices, I take it all of that would be part of the public record; am I correct, sir?

General CURRY. That is absolutely correct. That is all in the public files that have been available through our Technical Reference Division.

Senator BRYAN. And so that we do not wade through hours of conflicting data here this morning, our staff would have access, and I take it the public would have access, to those documents.

General CURRY. Certainly.

Senator BRYAN. The fourth estate, who is here today, would have access to these. And so we ought to be able to independently, after examining that record, reach our own judgment, which may concur with your conclusion, may concur with the Center for Auto Safety.

But we would have the same baseline information to work with as Mr. Ditlow and his people did and that you had in responding to the question, am I correct on that?

Mr. HELLMUTH. Absolutely, and it would be more than fair to have an unbiased reading of that data. I think we have made very good decisions, very firm technical engineering decisions and prosecutorial discretion decisions. That is part of our program.

General CURRY. And I am very delighted that we can provide the baseline information, and we would be most pleased to have it examined by your staff or anyone else.

Senator BRYAN. Well, I think that is important, because there is controversy that swirls around this. They may be right, they may be wrong. The truth may lie somewhere in between. But it is important for this committee to be in a position to examine that and for the public to reach its own conclusion.

Your testimony agrees with Mr. Ditlow's report, lest there be any confusion, that consumers should not hesitate to use these child restraint systems because there may be some kind of a defect. Maybe they should come on in and get it replaced and get something else, but they should not forebear from using it, because even a defective child restraint system is better than none at all in protecting the child.

Mr. HELLMUTH. That is correct.

Senator BRYAN. I know that is a concern you addressed in your full statement, which will be made a part of the record, General.

One thing I did find curious, and that is that you issued a press release yesterday and you are familiar with it. You have got a copy there.

General CURRY. Yes.

Senator BRYAN. And I was pleased to note that report. But you make reference to the Strolee, which is a particular model, a GT-3000, and you make reference to a Strolee Model 609 and 610. You are in effect through the media alerting the public that owners ought to be cautious of these types of seats.

Now, according to the Center for Auto Safety—and you might have a copy of that, Mr. Hellmuth, or one of your staff does. I am referring now to Appendix A, which purports to contain a list, if not in its entirety at least part, of compliance test failures and the dates that those occurred.

Now, I note that the GT-3000 Strolee was allegedly tested in 1987. The Strolee Wee Care 609, the Strolee Wee Care 610, also referenced in your report—and again, for those of us that are less sophisticated than your staff, those would seem to me to indicate three different models—the Strolee Wee Care 609, the Strolee Wee Care 610, was tested in 1985, and the GT-3000 was tested in 1987.

Now, I am somewhat new on the job, too, General. I just got here last year. But I guess the question that arises for me, depending upon how you calculate it, with the old math or the new math, that is five years after the date of these failures, in the case of the Wee Care 609, 610 three years after the date of the test and the failure of the other seats that we have talked about.

Why now are we doing the release, and what did we do immediately after these failed?

General CURRY. We will have that for you, a detailed answer given by one of my staff.

But let me just give a few preface comments.

Senator BRYAN. Sure.

General CURRY. Yes, it is true, I am new in the business and, as you know and as you and I discussed, one of the things that I promised you to do was to speed up the entire process.

Senator BRYAN. No question.

General CURRY. And that we would relook at the whole horizon, all of that. We have done that.

Senator BRYAN. General, understand my question is not personal to you. I want you to understand that I am interested in the issue, not the personalities involved.

General CURRY. Yes.

Senator BRYAN. And I realize that in 1985 and 1987 child passenger restraint systems were not your responsibility.

General CURRY. Yes, sir.

Senator BRYAN. So you do not have to be defensive with me on this one. But I do want to know what happened. And if you do not know, maybe someone ought to be able to tell us here.

General CURRY. Well, we are going to tell you what happened.

Senator BRYAN. Good.

General CURRY. But the good part of it is that the investigations did start early.

I was the one who made the decision to go ahead with the press release, by the way. It was really ready to be released about two weeks ago, and I said, shall we let it out now in the middle of a hearing or not? And my judgment was, there is no sense in waiting; let it out; we may save a life in the process.

And who is going to pick this one up?

Mr. HELLMUTH. I can do it.

There are two separate situations here, Mr. Chairman. One involved the 609 and 610 model, which was tested earlier. It did pass all compliance tests. Very recently, I suspect within the last month or so—this is really an Office of Defects Investigation matter and Mr. Brownlee can answer it in more detail—we received complaints that these seats, although they had passed the compliance test, were now starting to crack in use.

We received some complaints from a lend-lease program, which lends out these seats to various parents, that some cracks were developing in the seats. We did not know what effect those cracks would have on safety. So we obtained some of those cracked seats from various owners. We took those to our test laboratory, put those on the acceleration sled.

We conducted the test and found that, although they were cracked and some were cracked very severely, they had absolutely no effect on dummy performance. The child in effect would be adequately retained.

The problem was that some of these cracks did present some sharp edges that could possibly injure the child. So on that basis, we thought we should certainly go ahead and inform the public.

The issue of—let me get back to the other.

Senator BRYAN. Now, that would have been fairly recently. That is the provocative event that caused you to issue the release, if I understand your testimony?

Mr. HELLMUTH. That is correct.

Senator BRYAN. All right.

Mr. HELLMUTH. The other situation is the seat that has the 1987 test date. If I remember correctly, that failure was actually in 1988 some time. As part of our regular compliance test program, we did test that seat and we found that it failed seatback angle very badly.

So we immediately notified the manufacturer of this failure as is our custom in any compliance case. We opened an investigation, and then promptly found that the manufacturer was on very shaky grounds financially. We had an awful lot of problems trying to get any responses from him.

We had questions about his certification data, all the type of information we normally look for in a compliance case, and had difficulty getting any kind of a response at all. They basically said: We are out of business; we have one person answering the phones; that is about it.

Promptly thereafter, they filed for bankruptcy. So at that point in time, although we were prepared to follow up through our Chief Counsel's Office with special orders and whatever else we could get to get compliance information, we found there was basically no entity left.

The balance of the time up until the middle of 1989 or probably a little bit later was devoted to pursuing the possibility of getting a recall campaign if there was any surviving corporation that could basically absorb the costs. We have gone to the bankruptcy courts, we have gone to the banks involved, all those various aspects you have to look for in a bankruptcy.

Finally, we determined last, I believe, August or September that there was absolutely no possibility of getting a recall on this particular seat because the business was just out of business. And at that point in time we determined we should at least put out a press release to let the public know about this problem so they could at least be advised of the problem although there may not be any remedy.

We started putting together such a press release, and just about the time we had something together all the other news about child safety seats came to pass, and we thought we had better put this in conjunction with everything else.

Senator BRYAN. I understand. Let me just try to get this in focus a little bit. I mean, the premise in this appendix here—and I know you have read it, Mr. Hellmuth and General—is that there were compliance test failures in the dates indicated, 1985 in the case of the 609-610 model, 1987 in the case of the GT-3000 model.

And I guess my question is, were they the same tests that you have indicated that you performed more recently in the 1988-89 time frame?

Mr. HELLMUTH. I do not know the specifics of the test failures back in that time period. But if we did not go forward with that investigation and demand a recall, we must have decided that it obviously was a minor type problem that we did not think had any safety consequence.

It would have not been the same situation that finally turned out in use.

Senator BRYAN. And the reason why I am using this is because it is broad in focus. Your press release mentioned it yesterday. It is a focus of controversy in the Center for Auto Safety study.

We could spend all day here going through those. That is not my purpose. But it is illustrative, and I think it has been very helpful to the record that we are trying to build here.

General CURRY. I think it is helpful, sir, and I think we ought to provide you much fuller information on the questions that you posed.

Senator BRYAN. Would you do that?

General CURRY. Yes, sir, we would be happy to do that.

Senator BRYAN. And if there is anybody that can provide a more specific response that is at the table, please let me invite you to do so. Nobody?

General CURRY. Go ahead.

Senator BRYAN. Help us out again with your name.

Mr. BROWNLEE. My name is Mike Brownlee and I am Director of the Office of Defects Investigation.

Senator BRYAN. Mr. Brownlee, okay.

Mr. BROWNLEE. It might be a good time just to draw the distinction between the compliance program and the defects program, since both were dealt with in the release that you referred to. The

compliance program deals with objective standards that have been established by our Rulemaking Office; and the defects investigation program deals with things that are not covered by standards, but where defects show up otherwise.

The seat cracks that were mentioned were first brought to our attention last spring in the Strolee seat. We pursued the investigation and were——

Senator BRYAN. Can I stop you there, Mr. Brownlee, not to be rude, sir, but, at least part of the contention here is that the agency itself conducted tests in 1985 and 1987, respectively.

I guess my first question, is this correct? Just because it is on a sheet of paper attached to a report does not make it correct. Do you agree, or is there a disagreement as to whether that was tested?

Mr. BROWNLEE. No, I do not disagree with the test data that is in there. I am trying to draw the distinction between the defects program and the compliance.

Senator BRYAN. And I think I understand that.

General CURRY. But I do believe we have to answer your specific question, and I think we will have to get that back to you, sir, in detail.

Senator BRYAN. Sure. You are going to have a lot more credibility with me if you can respond specifically.

General CURRY. Sure.

Senator BRYAN. I do not know. The public does not know. This is your opportunity.

General CURRY. Yes.

Senator BRYAN. And this will not be the only opportunity that we will have to dialogue on this issue, General. But, specifically, if true, this is a damning indictment, that these reports were available to you in 1985 and 1987 and then on the eve of the hearing—you can see how it can look this way—all of a sudden this report is issued.

Now, that conclusion may not be fair. But until such time as you provide the public and this committee information specifically on how this occurred, General, frankly, there is a cloud.

General CURRY. You have given us a good opportunity and we will respond to that opportunity.

Senator BRYAN. And I would hope that at the same time we would make that information available to the general public as well.

General CURRY. Absolutely, delighted to do so.

Senator BRYAN. And again, Mr. Brownlee, I did not mean to be rude. But let us focus for a moment, because inherent in the controversy is a distinction between the investigations you make to determine that there is either some compliance failure or a defect that does not warrant a recall and those that do.

Can someone here tell us what the standard is, in other words what is the objective criteria, recognizing that there are changes in personnel? How do we know what you are using as a criteria to make a determination?

It has got a defect of some kind, it has a compliance test failure. You open up a file on it and say: Look, this does not have any sig-

nificance from a safety point of view; we're not going to do anything about it.

And I again defer that to——

General CURRY. Well, the procedure is in both cases, and let us do compliance first.

Senator BRYAN. Sure.

General CURRY. Bob.

Mr. HELLMUTH. Okay. Just to set the record straight here, I just pulled out the record of failures for the particular Strolee seat, the Strolee 609 that was tested back in 1984–85. The failure there was a slight discrepancy, dimensional discrepancy, in seatback height. It had absolutely nothing at all to do with the cracking problem that has been discovered through the defects program, the in-use program.

Senator BRYAN. So it was a different type of problem.

Mr. HELLMUTH. Very different.

Senator BRYAN. I understand that. I guess the question is, did that have any impact on the safety of youngsters riding in that seat, even though it was a different problem than your release is focusing on?

Mr. HELLMUTH. It was our sound engineering judgment it had absolutely no effect at all on safety.

Senator BRYAN. Do you have a policy guideline, a criteria, that you use to rely upon for that judgment? A guideline or a benchmark?

Mr. HELLMUTH. There is no set criteria. It is basically engineering judgment. It is not a one-man decision. It is a decision within the Office.

We have a test monitor that monitors all tests, and when he determines any failure at all he has to work it up the ladder, and within the Office we determine whether that in fact is a failure that is worthy of investigation or not.

Senator BRYAN. So it is subjective, it is subjective.

Mr. HELLMUTH. Yes, that is correct.

Senator BRYAN. Now, you say it is not a one-person decision?

Mr. HELLMUTH. That is correct.

Senator BRYAN. What is the procedure, just if you can explain it to us?

Mr. HELLMUTH. Well, we have independent test laboratories throughout the country that conduct all our compliance tests for us. Whenever there is a test failure during the compliance test program, the contractor is required to contact us within eight hours of that failure.

Either our monitor is there on site or else he is back in the office and he receives a telephone call. We then receive the preliminary information, preliminary data, and if, based upon what we see, we think there is truly a bona fide failure, we then have a meeting within the Office.

The test monitor brings the failure to the attention of his supervisor and eventually to me, and within a day or so we determine whether there is in fact a need for an investigation.

In those cases where there is no need for investigaticn, we document that meeting and put that in the file, so we know later on down the road why we did not do something.

Senator BRYAN. And that too is a public record, I would take it, Mr. Hellmuth? Am I correct on that?

Mr. HELLMUTH. Well, it is an internal document, but I suspect it could be made available.

Senator BRYAN. Well, we are trying to clarify some issues. This is an opportunity for a new Administrator who, frankly, has pleased me with his comment about the side impact standard. That is good news to us, General.

But you will make that available then, so we can take a look at it if there are some questions?

Mr. HELLMUTH. Plus the manufacturer is notified immediately, too. We call up the manufacturer and tell him of the failure that we have had. We also supply him with a copy of the test report once it is received.

We also ask for any certification data he may have about the particular test. The primary responsibility for building a seat that conforms to the standard rests with the manufacturer. That is the way Congress intended it, that is the way it basically works.

And the manufacturer, because he knows we are looking over his shoulder all the time, does extensive compliance work before the thing is even put on the market.

Senator BRYAN. General, let me just interrupt if I may. General, I do not want to beat this, but I guess for those of us who are not involved in testing and do not have a background on that, the question that arises immediately: If this was tested in the year 1985, why did not that test reveal the same information that your test in the 1988–89 cycle revealed with respect to the cracking problem?

The question is, is the test sufficiently comprehensive? Do we get different results by different contractors who conduct the test? Was the seat model the same in terms of type of construction in 1985 as it was in the 1988–89 time frame?

Those are some questions at least that come to my mind. Maybe you can respond.

Mr. HELLMUTH. The answer is that the compliance test does not address the problem that was seen in the field. These seats were being used in a user program, so they were undoubtedly used by many more people and probably saw much more life usage than an ordinary seat.

We do not have a fatigue test, for example, which could basically reveal the type of event that occurred here, a crack that developed due to extended usage and worked its way around on the seat.

Our test is strictly a sled-mounted dynamic test. The compliance question is does it pass or not when there is an accident simulation.

Senator BRYAN. General, I would hope in the process of looking at what has occurred in the past that you might take a look to see if these tests are comprehensive enough. It just seems to at least this member that a test ought to reveal problems at the time it is given. And even though the original test may have had a little different focus, if there is a problem, we ought to find that in one test, rather than having to find out in a series of tests over the years.

General CURRY. There is no reason why, and we will reopen it and review what we are doing in this matter. We should do it.

Not only will we make the information, by the way, on some of the decisions that were made earlier on available; we would be more than happy to talk any of the members of your staff through the process, so that they actually can see along the way what happened at each step and why that decision was made at that time.

Senator BRYAN. There is a contention—and I want to make sure that you understand it is an allegation; I do not endorse it as a fact—that some of the internal documents, such as your closing memos in noncompliance investigations, have been withheld from the public.

If that is true, General, that tends to exacerbate any suspicions as to what may or may not have been contained therein. That is not helpful in my view. Do you have policy on that?

We ought to make that stuff available, it seems to me, and I would encourage you to do so. What are your thoughts on that?

General CURRY. Well, generally speaking, as you know, Mr. Chairman, internal documents are not normally released. However, I think the public is ill-served if we are not able to openly explain why we did something, why we did it, the process we used, the decisions we made. And I can pledge to you that we are happy to do that.

Senator BRYAN. I appreciate that.

Senator McCain has joined us. I want to defer to you in just a moment, Senator. But just one last question. We could go on at length, but one of the things that is pretty clear is that the recall effort, the notification process, is not as effective as it ought to be. And your comments in your prepared testimony, General were very frank to address that we all need to do a better job in that area.

Recognizing that there are some distinctions that make the analogous comparison to vehicles, which are subject to a registration process and easier to trace, what thoughts do you have in terms of how we can make this more effective?

I frankly was rather taken by the comment in the report that we have a higher rate of recall for defective coffeemakers than we do in some of these defects that are noted. Clearly, I think one of the challenges that you are going to face is to improve the percentages there.

Let me defer to you in terms of what thoughts you have for the agency to do a better job. How can we all do a better job? Let us put it in that context.

General CURRY. I have, as you would imagine, been looking into that matter. Actually, we have done a good job in informing the public. We have done a lousy job in terms of getting the recalls done in a way that we really see the result we want to and the numbers of people that actually bring a seat in for a recall or do something about the seat.

We have just not done well on that and, as you know, as you pointed out, that is true in many consumer products. And I do not excuse or defend that.

We have granted a petition recently that talks in terms of whether or not we should have some kind of a registration, a mandatory registration of all of these seats, so that we could really try to keep track of the people who are involved. I am not sure that

will give us the result we want, because a lot of these seats are passed on from family to family all sorts of different ways.

But I want to pledge to you that I am not pleased with the way that it is done. I am not pleased with the percent of the recall. We have granted the petition deliberately because I believe we need to relook at the entire system of the way we do this.

We will do that and we will report back to you on that in addition to granting that petition.

Senator BRYAN. General, I would hope you would be innovative and aggressive.

General CURRY. We will try to be.

Senator BRYAN. You have an opportunity, it seems to me, to do just that.

Are you satisfied with the process in the law now, where the manufacturer in effect does the self-certification? Is that in your judgment working well?

General CURRY. That is working well. It is the same procedure we used in automobiles, for example. Once we establish the standards, then the automobile manufacturers themselves are the ones who build the vehicles to comply with the standards. The manufacturers certify that the vehicles comply with the standards, and then we spot check, as you would, individual cars. You are familiar with our program. We do that each year.

So we do the same procedure here. That procedure is itself a good procedure. I am not sure we have been aggressive enough, though, in some areas, even some that we have not talked about today, and certainly we have to look at it much better. And not only that, I think we have to be more aggressive.

Senator BRYAN. General, we are going to keep this record open even after Senator McCain's comments and questions such as he chooses to do. There will be some additional questions from members of the subcommittee who could not make it today. I have some additional questions.

I know that there are many people who are here to testify today and we want to give everybody a full opportunity to be heard.

Senator McCain, let me defer to you for any comments that you might care to make or questions you may have.

OPENING STATEMENT BY SENATOR McCAIN

Senator MCCAIN. Thank you, Mr. Chairman, and thank you for holding this hearing. I think it is a very important one and I think it is indicative of the kind of commitment that you have on this issue.

As the father of three small children, I am particularly interested, and I think that this hearing is especially timely, given that next week has been designated as National Child Passenger Safety Awareness Week.

I think it is vitally important, Mr. Chairman, that we raise awareness and educate parents about the use of child safety and booster seats. Although use of child care seats had risen to 83 percent in 1988, studies have estimated that from 30 to 50 percent of such seats are misused, reducing their effectiveness dramatically.

A child in a properly used safety seat can survive 71 percent of the serious accidents that would be fatal to an unrestrained child. This figure falls to 44 percent when the seat is partially misused.

Along with many of my colleagues on the Commerce Committee, I was an original co-sponsor of S. 673, legislation to reauthorize the National Highway Traffic Safety Administration. S. 673 passed the Senate last August, but, as in years past, it is stalled in the House.

I hope that our colleagues in the House of Representatives will pass this important measure, particularly because it includes several provisions addressing child safety in automobiles. That legislation would authorize incentive grants to the states to conduct programs encouraging the correct use of child restraint systems. It would also require improvements in the design of child booster seats, which often lack any proper form of upper body restraint.

We also need to focus much more attention on educating parents on the use of and the need for such booster seats. The use of restraint systems in the five to twelve age group is only 28 percent, compared to 75 percent for younger children.

I appreciate all of the witnesses being here today and I hope we can get Mr. Curry and others to move forward more rapidly on these issues. We must ensure that not only are child safety seats used, but that they are properly constructed, with simple, easy to follow instructions.

It is shocking in some ways to me that the lives of those we hold most dear, in which we invest the greatest hope for our future, are being injured or killed by a lack of attention to these simple but vital issues.

Thank you, General Curry, for being here today.

General CURRY. Thank you, sir.

Senator MCCAIN. First of all, I know it has already been discussed a little bit, but the study by the Center for Auto Safety alleges that 50 percent of child safety seats put children at risk. Are you in agreement or disagreement with that study?

General CURRY. I am totally in disagreement with that statement, and so is a large body of professionals around America. In fact, I have a statement here from the Director of the North Carolina Governor's Highway Safety Program, Mr. Paul B. Jones. He says: "The Center for Auto Safety may have sent a deadly message to parents, who might now be reluctant to put their children in motor vehicle seats."

He says some unkind things, but there is one thing at the end I think that is interesting, and I think the quote is: "Mr. Ditlow is either misinformed or out of touch with reality. If he wants to reduce injuries, he can begin by working with safety advocates to reduce the misuse of child restraints. He can encourage parents to properly restrain their children when they are in a car or truck."

And then last week I was down in Fort Worth, Texas, to attend the National Conference on Occupant Protection, where 200 highway safety professionals responded to some statements that had been made. And essentially, they believe that those statements are not correct.

In the professional community as we go around, we do not find that they share the view that 50 percent of our seats are not safe. I do not believe that and I do not believe the facts support that.

I am willing to make available openly and discuss and brief anyone that you should like to have briefed on the statistics showing the safety of the seats and actually explain how the seats operate.

Senator McCAIN. Mr. Chairman, perhaps I might request at this time then that those documents that General Curry stated may be made part of the record.

Senator BRYAN. They will be made a part of the record.

[The information referred to follows:]

STATEMENT PRESENTED AT THE NATIONAL OCCUPANT PROTECTION CONFERENCE—THURSDAY, FEBRUARY 1, 1990, FORT WORTH, TEXAS

At the national conference on occupant protection in Fort Worth, Texas, two hundred highway safety professionals responded to statements made today in Washington, DC, by the Institute for Injury Reduction (IIR) regarding rear seat lap belts.

The group gathered from January 29 to February 1, 1990, to prioritize the state and local strategies for reducing fatalities and injuries resulting from traffic crashes. The conferees represented the private and public sectors from 43 states and six territories.

Increasing the use of safety belts and child safety seats should be the nation's top occupant protection goal, and the group concurred that non-use was the major issue to be addressed.

They placed a high priority on convincing the public to use the systems they've already purchased which may include: lap/shoulder belts, automatic belts, air bags, and child safety seats. Three point systems are provided in virtually all front outboard seating positions and are now available in back seat outboard positions as of the 1990 model year passenger cars.

It was stressed that proper use of each system is necessary to mitigate injury or death. There is widespread agreement that, just as no medicine is 100% fail-safe, no vehicle safety system is 100% effective in preventing all injuries or fatalities.

Great strides have been made in raising public awareness of the benefits of both safety belts and child safety seats. These gains are due in large part to the successful efforts of those at the meeting in Fort Worth and to state safety belt and child passenger safety laws.

Campaigns across the nation have resulted in significant increases in belt use in the front seat. However, there remain a number of public misconceptions about the benefits of rear lap belt use that are continually raised by groups who use selective cases and apply them broadly to support their public positions. Their statements give conflicting messages to the public.

IIR interpretations conclude that lap belts do not offer protection and in some cases actually result in more injuries. Their findings ignore the larger body of automotive and biomedical research which proves that passengers of all ages and sizes receive more effective protection with properly fastened rear lap belts than with no restraint system at all.

Conferees in Fort Worth are concerned with irresponsible statements and actions that invariably discourage the use of any occupant restraint device and thus undermine efforts to increase the public's confidence in and acceptance and use of those systems.

The conference has outlined an occupant protection program for the nation with meaningful, cost-effective, and realistic steps that will save lives through increased proper use of safety belts and child safety seats. The attendees challenged responsible health and safety advocates to join in these pro-usage programs and cautioned against activities that would confuse the public on the benefits of occupant protection systems.

Senator BRYAN. I might indicate, Senator McCain, that General Curry has indicated to the committee that he will make all the information upon which these allegations and the controversy that surrounds them is based, and that our staffs individually or the subcommittee staff will have full access, as will the general public. And we can hopefully at least get to the bottom of where the truth lies in this.

General CURRY. Yes.

Senator McCain. Thank you, Mr. Chairman.

And Mr. Curry, I do agree with that letter. It did send alarm bells to parents throughout the nation, and I hope that we can get this issue resolved.

But you know, speaking from personal experience lugging these seats around frequently, I find one thing from the personal experience standpoint: that they are very non-standard. I have had experience with very light, relatively small seats, to ones that nearly gave me a hernia moving it from front seat to back seat.

Do you think one of the problems here might be that there is not sufficient standardization of the safety seats themselves?

General Curry. I think in some cases that is true. We have sort of had kind of an open-ended way that we have gone about the manufacturing.

A very good step has been taken recently by our organization, by the way, in terms of shoulder and lap belts, is that we are insisting on compatibility of the belts with the seats.

I have looked personally at child safety seats and I must tell you I have come to some conclusions that you mentioned this morning. I do believe that we need to look at them, and we have discussed looking at them in terms of perhaps—we do not want to be too intrusive into private industry, but at the same time it seems to me that there is an area here where perhaps we need to intrude more than we have. And I will be happy to take a look at that and see whether we should do that.

Senator McCain. I am not one, either, who believes in intrusion of the Federal government, General. But obviously we are talking about safety and lives here. It seems to me that one of the options we should seriously explore is a standardization to include minimum requirements for these safety seats.

It may be that would resolve some of the concerns that people have. Perhaps some kind of—I hesitate because I am not that totally immersed in the issue, but perhaps some form of certification that these seats meet certain minimum standards.

General Curry. They do go through a formal certification. There is a requirement that they meet certain standards. But the bad part of it that gives us the problem, I think, is that they can meet the standard in so many different ways that it is possible to get the sorts of things that you are talking about. They meet the standard, but there is no standardization as such.

So we need to relook at the standard and standardization, I think, as a package.

Senator McCain. Thank you very much, Mr. Chairman. Thank you.

Senator Bryan. Thank you very much, Senator. That I think was a very helpful colloquy.

General, we do have an opportunity. You know, it is a fresh slate, it is a new book, and there are some chapters that you have an opportunity as an Administrator to write.

General Curry. Yes.

Senator Bryan. And Senator McCain's suggestion is an interesting one. Let us take a look at that, to see if that is part of the problem, and to see what is involved in standardization. I too am not

one that would encourage you to run willy-nilly into regulating every aspect of the manufacturing process.

But we are talking about child safety here. If there is a decision about whether or not to intervene more aggressively to protect children's lives or to forebear because it might be construed as interjecting the Federal government into the private sector, I would hope that there would be no doubt in your mind that the safety of America's children is the paramount charge that you and I have on this issue.

General CURRY. Absolutely, it is our charge and it is incumbent upon me to execute that charge. And I assure you that once we have looked at the standard and standardization, if there is a requirement for aggressive pursuing of this matter I will aggressively pursue it, no matter what the cost is.

Senator BRYAN. We appreciate that, and we look forward to further discussions.

We thank your staff for joining us, and I know you have got to hasten off to your retreat with your staff in Annapolis. We thank you very much.

General CURRY. Thank you, Mr. Chairman.

Senator BRYAN. Our next panel will consist of: Mr. Clarence Ditlow, the Executive Director of the Center for Auto Safety and the author of the report which has prompted a great deal of discussion, not only this morning but since released last fall;

Mr. Fred Locker joins that panel on behalf of the Juvenile Products Manufacturing Association; and Mr. Philip W. Haseltine is the Executive Director of the American Coalition for Traffic Safety.

Each of these gentlemen and the organizations that they represent have been long involved in child safety issues and we welcome them to the table.

Let us begin with Mr. Ditlow.

STATEMENT OF CLARENCE DITLOW, EXECUTIVE DIRECTOR, CENTER FOR AUTO SAFETY

Mr. DITLOW. Mr. Chairman and members of the subcommittee: Thank you for the invitation to testify on child passenger safety.

Senator BRYAN. Mr. Ditlow, could you draw that microphone a little closer? Thank you.

Mr. DITLOW. The Center is a non-profit group that has long been a leader in the development and use of child restraints. We were the first to call for mandatory child restraint laws in a petition to NHTSA in 1973, and we were the first to petition for a dynamic test standard for child seats in June of 1972.

If the Center takes a tough stance on NHTSA's inaction, it is because experience has taught us that polite requests lead only to further inaction. But I must say that I am not sure whether I am more delighted by General Curry's movement forward on side impact standards or his commitment to release all of the previously withheld information by the past Administration on confidentiality of child restraints. So we do see some progress.

Child passenger safety has always been a national priority, where Congress has directed NHTSA to do more to protect children. School buses are a very safe form of transportation because

they are involved in relatively few accidents. Yet when there is an accident the death and injury toll is all too high.

NHTSA has long relied on the low accident frequency to avoid upgrading school bus safety standards, saying the costs outweigh the benefits. Congress expressly rejected this, finding that "the need to protect young school children substantially outweighs the low cost-benefit consideration." But whether it is school buses or child seats, the nation is willing to do more to protect its children.

In December 1989, the Center released the results of our six-month study of child seats that found millions of American children ride at risk due to NHTSA's lax enforcement policies. We have provided a copy of that report to the committee and ask that it be put in the record.

Senator BRYAN. Yes.

Mr. DITLOW. Thank you.

Senator BRYAN. I take it, for the record, that we are talking about the report that has been appended, this document right here?

Mr. DITLOW. Yes, that is correct, Senator Bryan.

Senator BRYAN. That is, for the record, "Children at Risk: Failure of the Federal Child Restraint Compliance and Recall Program," dated November 1989, of the Center for Auto Safety. That will be made a part of the record by reference,[1] Mr. Ditlow.

Mr. DITLOW. Thank you.

Although all 50 states require children to use life-saving child restraints, NHTSA has failed to ensure that child restraints are as safe and effective as they can and should be. While even a defective child restraint is better than no restraint at all——

Senator BRYAN. Can I get you to repeat that, Mr. Ditlow? You said that in your report, you said it now, but I think it is important for the parents of America to understand, notwithstanding your disagreement with NHTSA on standards and aggressiveness, that these seats ought not to be not used simply because there is some controversy as to how effective some of the standards are.

Mr. DITLOW. There is no question about that. Use the child restraint that you have, because any child restraint is better than no child restraint.

Senator BRYAN. I thank you for repeating that.

Mr. DITLOW. Every child restraint should be as safe as possible and meet Federal safety standards. We found children ride at risk because recalled seats are not replaced or repaired, warning labels are approved that never reach owners, investigations are dropped without recalls, and compliance test failures are not investigated.

We found case after case where NHTSA approved ineffective recall remedies and failed to make manufacturers notify consumers. In one major recall of 1.4 million seats, NHTSA approved a notification so ineffective we could find no evidence that anyone was ever notified, including Evenflo's own retailers, who continued to sell the defective seats after the recall. The Consumer Product Safety Commission does indeed recall coffeemakers better than

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[1] The report was not reproducible.

NHTSA recalls child seats, even though defective child seats result in more deaths and serious injuries.

To make all child restraints safer, we petitioned NHTSA to require registration of child seats and eliminate the loophole permitting seats to avoid safety requirements in some positions so long as they are labeled.

We also petitioned NHTSA to recall all Evenflo One Step safety seats, and I would like to use this as an example of what we find wrong with the enforcement program. That seat has failed four separate compliance tests. There has been only one investigation of it. That was begun in 1983 and it was closed out five years later without a recall.

No other child seat has an injury and fatality rate nearly as high as the One Step, whose protective shield does not catch and releases in crashes, with the infant being propelled about the interior of the car. Although NHTSA investigated the One Step for five years without ordering a recall, NHTSA never once asked Evenflo to produce all reports of deaths and injuries in accidents involving One Step seats.

In Institute for Injury Reduction low-speed crash tests, we found the shield repeatedly flew up and the test dummy flew out. The Institute found the protective shield failed because a false latch condition prevented the buckle from engaging properly. Evenflo itself knew of the One Step's false latch failure, but failed to take action to recall the seats or notify owners. The company did modify its instructions to include a warning in boldface advising owners of One Step seats to check that the buckle had engaged by vigorously pulling up on the shield.

Often owners following those instructions cannot exert enough force on the shield to reveal the false latch condition, particularly where they have to do it from the side in a rear-facing seat. I suggest that anyone here who has not tried it, go out and try it. It is very difficult to do.

Every day parents who use the four million One Step seats sold place their children at risk, more so than if the seat had met all safety standards and did not have the false latch. When parents attempt to secure the protective shield, they can inadvertently place it in the false latch position. If a crash occurs, the child seat can pop open, causing their child to be flung about like a rag doll.

The Center gives very solid advice to parents who use defective seats. Outside of recall information, we tell parents how to more safely use their 5.4 million One Step and Dyn-O-Mite child restraints, which alone make up 20 percent of the restraints in use. Parent after parent has told the Center that they have difficulty in latching their One Step and that the shield pops up while driving. Our advice helps these parents more safely use their seats. While advice is no substitute for an effective recall, getting the message out on how to properly engage the latch in the One Step will save lives and prevent injuries.

One overview of the entire recall in child seat process I would like to point out. In evaluating recalls, one must be careful to distinguish their effectiveness from that of safety standards, as the courts have done in upholding NHTSA-mandated recalls. Safety standards by virtue of their application to every vehicle and item

of motor vehicle equipment save far more lives than do safety recalls. For sheer effectiveness, nothing touches standard 208, which will save 12,000 to 15,000 lives per year when air bags are in all passenger vehicles, including light trucks and vans.

Yet most recalls have been carried out where not a single death has been found. Indeed, the courts have upheld NHTSA in safety recalls without a single injury, such as the 1977 recall of nearly 300,000 Cadillacs, where NHTSA could not show a single accident or injury. Recalls are an essential part of the Safety Act. To diminish their value and tolerate five percent recall rates, as NHTSA has done with child seats, is to begin to unweave the fabric of the Safety Act. We can and must do better for vehicle safety and the safety of our nation's children.

Thank you.

[The statement follows:]

STATEMENT OF CLARENCE M. DITLOW
DIRECTOR, CENTER FOR AUTO SAFETY
Before the CONSUMER SUBCOMMITTEE
OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
February 7, 1990

Mr. Chairman and members of the Subcommittee, thank you for the invitation to testify on the safety of child passengers in motor vehicles and the federal enforcement of child passenger regulations. The Center for Auto Safety (CAS) is a non-profit organization that has long been a leader in the development and use of child restraints. CAS was the first to call for mandatory child restraint laws in a petition to the National Highway Traffic Safety Administration (NHTSA) in November 1973. CAS was the first to petition for a dynamic test standard for child seats in June 1972 but NHTSA denied the petition in October 1972 claiming it had to see real world data before it would act to upgrade the standard. If the Center takes a tough stance on NHTSA's inaction, it is because experience has taught us that polite requests lead only to further inaction.

Child passenger safety has always been a national priority where Congress has directed NHTSA to do more to protect children. For example, school buses are a very safe form of transportation because they are involved in relatively few accidents. Yet when there is an accident, the death and injury toll is all too high. NHTSA has long relied on the low accident frequency to avoid upgrading school bus safety standards saying the costs outweigh the benefits. In 1974, Congress expressly rejected this in enacting the Motor Vehicle and School Bus Safety Amendments finding, "the need to protect young school children substantially outweighs the low cost-benefit consideration." [H. Rep. No. 93-1191, 93rd Cong. 2d Sess. 19 (1974).] Whether it's school buses or child seats, the nation is willing to do more to protect its children.

In December 1989, CAS released the results of our six-month study of child seats that found millions of American children ride at risk every day due to NHTSA's lax enforcement policies. Although all 50 states require children riding in cars to use lifesaving child

restraints, NHTSA has failed to ensure that child restraints are as safe and effective as they can and should be. The tragedy is that while many child restraints are safe, others are not. While even a defective child restraint is better than no restraint at all, every child restraint should be as safe as possible.

The CAS study found children ride at risk because recalled seats are not replaced or repaired, warning labels are approved that never reach owners, investigations are dropped without recalls, and compliance test failures are not investigated. Out of 27 million child restraints sold over the past 8 years, over half are in use despite being recalled or failing compliance tests. At least 8 million failed safety compliance tests but were not investigated or recalled. Another 3.4 million were investigated but not recalled. Of the 5.6 million child restraints recalled, only 0.3 million were actually replaced or remedied. The other 5.3 million recalled seats are used by unsuspecting parents who place their children at greater risk of death and injury than if they used non-recalled seats meeting all NHTSA compliance tests.

CAS found case after case where NHTSA approved ineffective recall remedies and failed to make manufacturers notify consumers. In the case of 1.4 million Evenflo Dyn-O-Mite restraints recalled in April 1989, NHTSA approved a notification so ineffective the Center could find no evidence that anyone was ever notified including Evenflo's own retailers who continued to sell the defective seats after the recall. In surveys of 40 Evenflo retailers from September through December, CAS could not find one who knew anything about the recall even though Evenflo said all had been notified as a primary means of implementing the recall. CPSC recalls coffee makers better than NHTSA recalls child restraints even though defective child restraints result in far more deaths and serious injuries.

To make child restraints safer, we filed the following petitions with NHTSA to force the agency on problems and hazards uncovered by our study.

* Defect petition to recall all 4 million Evenflo One Step child restraints for inadequate crashworthiness and a defective latch

that have been involved in 15 accidents where children have been killed or seriously injured, more than any other child restraint.

* Petition seeking the replacement of 1.4 million Evenflo Dyn-O-Mite child restraints for inadequate notification and remedy.

* Rulemaking petition requiring manufacturers to register the names and addresses of purchasers of child restraints.

* Rulemaking petition preventing manufacturers from escaping replacement recall by putting ineffective warning label on restraint.

In addition to these petitions, the Center requested NHTSA to take the following actions to ensure that parents who use child restraints as required by law do so with the full lifesaving protection offered by a child seat that meets all aspects of FMVSS 213:

* Examine the actual fatal accident reports and interview the parents for every child restraint death identified in the FARS system since 1981 to recall defective child restraints.

* Open investigations for the 47 cases involving 8.3 million child restraints which failed FMVSS 213 compliance tests since 1981 where NHTSA has violated its own procedural requirements by failing to open a compliance investigation.

* Reopen every FMVSS 213 compliance investigation closed since 1981 without a recall and make public every document to ensure that the decision not to recall is fully justified and does not endanger children.

* Publish a list of FMVSS 213 compliance test results for all child restraints so that parents can buy the ones that pass all criteria.

* Initiate new enforcement proceedings for every child restraint recall with an actual recall rate less than 60% to determine why the rate was so low and to require new measures by manufacturers to secure better recall rates. As a minimum every manufacturer should (1) take out paid advertisements for newspapers, magazines, television and radio, (2) conduct direct mail campaigns to all parents of children as has been done in some CPSC recalls, and (3) conduct individual training sessions on each recall for all managers of retail outlets selling their child restraints.

Evenflo One Step

As part of our study, CAS and Consumer Action (CA) of San Francisco petitioned NHTSA to conduct a defect investigation into and order a recall of all One Step child safety seats (models 401 and 402) made by Evenflo/Questor. In a search of all child restraint cases reported to the Association of Trial Lawyers of America, the Institute

for Injury Reduction and CAS, we identified fifteen automobile crashes where children in One Step seats have suffered severely debilitating or fatal injuries. No other child seat had an injury and fatality rate nearly as high as the One Step.

Injuries in at least thirteen of these cases resulted from inadequate crashworthiness or failure of the latch mechanism used to hold the movable shield in place. In some cases, the shell of the seat fractured. In others, the infants suffered injuries inflicted by components of the seat itself. In the most glaring defect, the latch holding the protective shield does not catch and releases in crashes with the infant being propelled about the interior of the car.

The One Step child seat has failed four FMVSS 213 compliance tests since 1983. [Test numbers 213-CAL-82001, 213-CAL-83007, 213-CAL-85-016, and 213-CAL-88-023.] Each of these failures should have resulted in a Certification Information Request (CIR) by the agency, but NHTSA opened only one compliance investigation -- CIR 2617, in response to test 82001. Thus, the agency clearly violated its own rules and procedures which require an investigation to be opened when any vehicle or item of equipment fails a compliance test.

During the one investigation (CIR 2617) conducted on a One Step seat, tests revealed that the latches could open with as little as six pounds of force, clearly demonstrating their inherent danger. Although NHTSA began the investigation in June 1983 the case dragged on for five years before NHTSA closed it on June 13, 1988 without ordering a recall for this non-compliance.

During this investigation and despite the three subsequent compliance failures, NHTSA never required Evenflo to produce all reports of deaths and injuries in accidents involving One Step seats.[1]

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[1]On June 17, 1983, NHTSA asked for "the number and substance of any complaints or reports . . . relating to deficiencies or failures in the subject child restraints" rather than accident reports and lawsuits. The response referenced earlier buckle complaints and selectively provided two letters on accidents where the One Step performed satisfactorily without providing accident reports where the One Step performed poorly. NHTSA made no subsequent requests for complaints and none for accidents or lawsuits.

If NHTSA had required production of such accident reports prior to the closing of CIR 2617 in June 1988, then NHTSA would have uncovered the terrible trail of unprecedented death and injury in the Evenflo One Step child seat which began at least as early as 1983.

False Latch

The Institute for Injury Reduction (IIR) has conducted crash tests at 7-8 MPH of new Evenflo One Step child seats purchased in November 1989. In this low-speed impact testing, the shield repeatedly flew up and the test dummy flew out. IIR found that the protective shield failed because a false latch condition prevented the buckle from engaging properly.

Evenflo itself knew of the One Step's false latch failure but failed to take action to recall the seats or notify owners. For example, Evenflo produced its own demonstration film in 1987 which showed the false latch position and the amount of force (6 to 38 pounds) needed to reveal the false latch. In addition, Evenflo modified its instructions in 1987 to include a warning in boldface advising owners of One Step seats to "Check that buckle has engaged by vigorously pulling up on the shield." However, some owners following those instructions cannot exert enough force on the shield to reveal the false latch condition, particularly when they have to do it from the side in a rear-facing seat.

Every day, the parents who use the four million One Step seats sold by Evenflo/Questor place their children at risk. When parents attempt to secure the protective shield, they can inadvertently place it in the false latch position. If a crash occurs, the shield can pop open causing their precious child to be flung about like a rag doll. This was what happened to 9-month old Chris Brasher of Henderson TX who suffered brain damage that left him partially paralyzed when the buckle on his One Step seat sprung open in a November 8, 1986, crash because it was in the false latch position. His attorney, Paul Colley of Tyler TX, won a $250,000 judgment against Evenflo after the company produced the internal film showing the false latch position.

Value of Consumer Warnings on Evenflo One Step and Dyn-O-Mite Seats

CAS give very solid advice to parents who use defective seats. Outside of recall information, we tell parents how to more safely use their 5.4 million Evenflo One Step and Dyn-O-Mite child restraints which alone make up 20% of the restraints in use. Parent after parent tell us that they have difficulty in latching their One Step and that the shield pops up while driving. Parent after parent report they use the Dyn-O-Mite and Infant Car Seat in the lowest position with only a lapbelt. Our advice, as reflected in the attached "Dear Parent" letter, helps these Evenflo owners more safely use their seats. While advice is no substitute for an effective recall, getting the message out on how to properly engage the latch in the One Step and to avoid the lowermost position in Dyn-O-Mite will save lives and prevent injuries.

Misuse of Child Seats

NHTSA cites misuse as a major problem for why child seats are not effective as they could be. To the extent misuse continues to be a problem since the phasing out of seats with top tethers, a major reason is that child seat manufacturers make seats too difficult to use with the instructions provided. Even NHTSA's compliance test laboratory has complained they have difficulty installing and using seats properly despite their engineering expertise and years of experience. Rather than focusing primarily on the parent, more attention should be paid to the manufacture of the seat, the adaptability to all cars, the clarity and standardization of instructions and directions, and engineering to prevent misuse.

Recalls and Safety Standards

In evaluating recalls, one must be careful to distinguish their effectiveness from that of safety standards as the courts have done in upholding NHTSA mandated recalls. Safety standards by virtue of their application to every vehicle save far more lives than do safety recalls. For sheer effectiveness, nothing touches FMVSS 208 which will save 12-15,000 lives per year when air bags are in all passenger

vehicles. Yet most recalls have been carried out where not a single death has been found. Indeed, the courts have upheld NHTSA in safety recalls without a single injury. For example, the U.S. Court of Appeals upheld the recall of 284,000 Cadillacs in 1977 even though NHTSA couldn't show a single accident or injury (U.S. v. General Motors, 561 F.2d 923). In another case, the courts upheld NHTSA's recall of 189,000 Ford cars for failure of windshield wipers even though Ford contended there would be more accidents caused by the additional travel by to dealer garages for the recall than would ever be caused by wiper failure in use. U.S. v. Ford Motor Co., 453 F.Supp 1240 (1978).

STATEMENT OF PHILIP W. HASELTINE, EXECUTIVE DIRECTOR, AMERICAN COALITION FOR TRAFFIC SAFETY, INC.

Mr. HASELTINE. Thank you, Mr. Chairman. Thank you for the opportunity to testify this morning.

There are three basic points I would like to convey to the subcommittee in my testimony. First, and you have talked about it before, Mr. Chairman, that child safety seats are extremely effective occupant protection devices, perhaps the single most effective device available to the motoring public. Properly used, they reduce the chance of injury or death by an infant or toddler by 70 percent or more.

As we have heard this morning, all states now require their use. Usage levels are in the 80 percent range.

The problem, unfortunately, is that the level of correct use is substantially lower. There has been improvement in proper use, with NHTSA's 19-cities survey showing 33 percent incorrect use in 1988 while only 17 percent incorrect use during the last quarter of 1989.

Quite frankly, Mr. Chairman, I would like to see that 17 percent as a continuing trend before I pay a lot of attention to it. But I think it is helpful and it is encouraging.

Still, it is doubly tragic when parents make the effort to procure a child safety seat and the child is needlessly injured because the seat is not used correctly. So that is why I believe that the two biggest challenges that we still face today in child passenger safety are getting all parents to use child safety seats and, as you said, use them correctly.

My second point concerns the process of how government, manufacturers and consumers deal with child safety seats that are determined not to comply with Federal Motor Vehicle Safety Standard 213, either through compliance testing or defect investigations.

Let me preface my remarks in this area by noting that the vast majority of child safety seats which have been the subjects of recalls due to defects or noncompliance with the standard still provide significant safety benefits and should be used until the seat is repaired or replaced. And you again said that time and time again this morning, Mr. Chairman.

Still, parents need to be confident that the child safety seat they purchase will perform as advertised. And I think most reasonable people, would agree that current recall completion rates in the five to seven percent range are unacceptable.

Child safety seats may be the subject of recall action, as we have heard, for a broad range of problems, many of which are relatively minor. Currently the standard treats all compliance problems equally. The standard does not differentiate between a seat which has a warning label printed in nine point type instead of the required ten point type and one that fails the dynamic crash test.

Since the standard does not differentiate, NHTSA is forced to use its administrative or prosecutorial discretion on whether or not to recall for each and every deviation from the standard. Overuse of the recall process can result in numbing parent sensitivity to serious safety problems. On the other hand, underuse of the process can result in seats which might fail in a crash while actually in use.

We suggest, Mr. Chairman, a two-part remedy: First, consideration should be given to modifying the standard to formally address the most serious safety problems differently than it treats those associated with things like labeling or buckle corrosion tests.

Second, a more effective recall process should be developed to increase the likelihood that child safety seats with serious safety defects are repaired or replaced.

A split or bifurcated standard, by the way, is not without precedent. A similar concept is used in NHTSA's regulation of vehicle identification numbers, or VIN numbers.

A combined standard-regulation, coupled with other improvements designed to increase recall completion rates, offers distinct advantages, I believe, over the existing structure. The range of remedies would be more appropriate to the severity of the specific defect, therefore enhancing the credibility of the process among child seat manufacturers and consumers alike.

An improved recall process, again, is necessary both to help ensure that truly unsafe seats are not being used and to convince parents that if their seat is recalled, returning or repairing the seat is important.

Senator BRYAN. Let me be rude if I may for a moment. I have got two minutes before a roll call vote. We are going to be in recess for ten minutes. We will give you a chance to finish your statement. Mr. Locker, we will take whatever time to get your statement.

Then to those that are on the next panel as well, my apologies. We will be in recess for ten minutes. [Recess]

Senator Bryan: The subcommittee will reconvene. My apologies, Mr. Haseltine. I was hoping that we would be able to get through your whole statement, but I had only a couple of minutes to get to the vote.

So you pick up at some point where the thread of thought is rejoined for you.

Mr. Haseltine: Thank you, Mr. Chairman. I should have made it two paragraphs shorter and we would have avoided that problem.

I was talking about the notion of dividing the standard into two areas, one dealing with the most critical safety aspects and another

area that might be treated somewhat differently, dealing with comparatively minor things like buckle corrosion tests and perhaps some of the labeling requirements, although labeling is of course important, and we might receive benefits from that requirement.

First of all, the range of remedies I believe would be more appropriate to the severity of the specific defect, therefore enhancing the credibility of the process among child seat manufacturers and consumers alike.

And secondly, I was talking about an improved recall process being necessary to help ensure that truly unsafe seats are not being used and to convince parents that, if their seat is recalled, returning or repairing the seat is important.

An improved recall process I believe will require better ways of notifying parents of an existing safety defect. While several approaches deserve exploration, I believe, Mr. Chairman, effectiveness will probably be maximized by including some form of manufacturer-based registration of child safety seats.

My third and final point is one that has also been brought out this morning, and that is, regardless of whatever improvements are ultimately mandated by Congress or by NHTSA, all of us in government and the private sector need to continue to be mindful of the need to express our concerns in a fair, objective, and non-inflammatory manner. I think you have been doing an excellent job of that this morning, and I commend you.

What we need to do collectively, Mr. Chairman, is to take a very good program and make it better, and I am convinced that we can and must do that.

I would be pleased to respond to any questions you may have, sir.

[The statement follows:]

STATEMENT OF PHILIP W. HASELTINE
EXECUTIVE DIRECTOR
AMERICAN COALITION FOR TRAFFIC SAFETY, INC.
BEFORE THE CONSUMER SUBCOMMITTEE OF THE
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE
FEBRUARY 7, 1990

Mr. Chairman and members of the subcommittee, I am Phil Haseltine, Executive Director of the American Coalition for Traffic Safety and I appreciate your invitation to provide testimony on the important subject of child passenger safety. The American Coalition for Traffic Safety (ACTS) is a private, non-profit educational traffic safety organization. Most of our resources are devoted to occupant protection issues; safety belts, air bags and child safety seats. Our active members include American Honda Motor Company Inc., Chrysler Motors Corporation, Ford Motor Company, General Motors Corporation and TRW, Inc., none of whom are manufacturers of child safety seats.

There are three important points I would like to convey to the subcommittee this morning. First, child safety seats are extremely effective occupant protection devices, perhaps the single most effective device available to the motoring public. Properly used, they can reduce an infant or toddler's chance of death or serious injury in a crash by seventy percent or more.

As you know, all fifty states require the use of child safety seats and current national usage levels are in the eighty percent range. Unfortunately, the level of correct use is substantially lower. There has been improvement in proper use, with NHTSA's nineteen city survey showing 33 percent incorrect use in 1988 and seventeen percent during the last quarter of 1989. Still, it is doubly tragic when parents make the effort to procure a child safety seat and a child is needlessly injured because the seat is not used correctly. That is why the two biggest challenges we face in child passenger safety are 1) getting all parents to use child safety seats and 2) to use them correctly.

The second point concerns the process of how government, manufacturers and consumers deal with child safety seats which are determined not to comply with FMVSS 213, either through compliance testing or defect investigations. Let me preface my remarks in this area by noting that the vast majority of child safety seats which have been the subject of recalls, due to defects or non-compliance with the standard, still provide significant safety benefits and should be used until the seat is repaired or replaced.

Still, parents need to be confident that the child safety seat they purchase will perform as advertised. And, I think most reasonable people would agree that current recall completion rates in the five to seven percent range are unacceptable.

Child safety seats may be the subject of recall action for a broad range of problems, many of which are relatively minor. Currently, FMVSS 213 treats all compliance problems equally. The standard doesn't differentiate between a seat which has the warning label printed in nine-point type instead of the required ten and one which fails a dynamic crash test. Presently, the only exception to recall requirements is for a manufacturer to demonstrate that a noncompliance is inconsequential as it relates to safety. Minor labeling errors are included in legislative history as examples of inconsequential errors. However, the process for declaring something inconsequential carries with it administrative burdens for both manufacturers and the regulating agency.

Since the standard doesn't differentiate, NHTSA is forced to use its prosecutorial discretion on whether or not to require a recall for each and every deviation from the standard. Over-use of the process could result in numbing parents' sensitivity to serious safety problems. Under-use of the process could result in seats which might fail in a crash remaining in use.

ACTS' concern is not with the application of prosecutorial discretion, but with the structure of a standard which treats the most minor problem the same as a very serious problem, coupled with extremely low recall return rates. We suggest a two-part remedy.

First the standard should be modified to formally address the most serious problems differently than it treats those associated with things like labeling or buckle corrosion tests. Second, a more effective recall process should be developed to increase the likelihood that child safety seats with serious safety defects are repaired or replaced.

A bifurcated standard is not without precedent. A similar concept is used in NHTSA's regulation of vehicle identification numbers (VIN). In 1983, the Agency amended its rules to separate the fundamental characteristics of vehicle identification numbers (length, location, readability, etc.) from other requirements as to the VIN's specific content. Fundamental characteristics remained as a Federal Motor Vehicle Safety Standard, subject to notification and remedy requirements. The more detailed content requirements for each digit were made the subject of a separate general agency regulation (Part 585), for which more flexible methods of enforcement are permitted.

A combined standard/regulation, coupled with other improvements designed to increase recall completion rates, offers distinct advantages over the existing structure:

- The range of remedies would be more appropriate to the severity of the specific defect, therefore enhancing the credibility of the process among child seat manufacturers and consumers, alike; and

- An improved recall process is necessary, both to help ensure that truly unsafe seats are not being used and to convince parents that if their seat is recalled, returning or repairing the seat is important.

An improved recall process will require better ways of notifying parents of an existing safety defect. While several approaches deserve exploration, effectiveness will probably be maximized by including some form of manufacturer-based registration of child safety seats. Because of the wide ranging distribution systems for child safety seats, improvements to the current system will require careful thought and creative approaches.

My third and final point is that regardless of whatever improvements are ultimately mandated by Congress or NHTSA, all of us in government and the private sector should be mindful of the need to address our concerns in a fair, objective, non-inflammatory manner. We can all point to past examples in which legitimate concerns have been sensationalized to the extent that they have had a potential negative effect on highway safety. The subject of child passenger safety is too important, literally, to throw the baby out with the bath water. What we need to do, collectively, is to take a very good program and make it better. And, I am convinced that we can and must.

That concludes my remarks, Mr. Chairman. I would be pleased to respond to any questions you or members of the subcommittee may have.

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Senator BRYAN. Thank you very much, Mr. Haseltine. We will have some questions after we give Mr. Locker, who has been long-suffering and long patient, a chance to give his testimony.

Mr. Locker, good morning.

STATEMENT OF FRED LOCKER, ON BEHALF OF THE JUVENILE PRODUCT MANUFACTURERS ASSOCIATION

Mr. LOCKER. Thank you very much, Mr. Chairman.

The Juvenile Product Manufacturers Association is a nonprofit trade association. We represent most of the domestic manufacturers of a whole range of children's products, from cribs, playpens, high chairs, bedding, and a diverse range of products designed to help parents raise and care for their children. We are dedicated to children's safety, period. I am involved personally and as an Association, we are involved collectively in numerous safety activities and standard-setting processes. Among our members are the six major car seat manufacturers who represent over 95 percent of car seats sold in the United States today.

I am here to tell you and the public and whoever cares to listen that we are in a battle. It is not just a battle on recall effectiveness. It is not just a battle against specific allegations. It is a battle against apathy, and I would like to explain that.

We have heard a lot of statistics here today. We have heard statistics from NHTSA that child car seat use has increased from a low of 15.2 percent in 1980 to what they estimate now is in excess of 80 percent. We have heard statistics how misuse has improved from a point of two-thirds in 1983 to almost one-third today. But that is not enough, because what that means in terms of our population today, which is approximately over 18¼ million children in the age range from zero to four years of age, is that three to five million children go without any benefit of any child passenger restraint system from day to day in our country. We figure that at least a third of the car seats out there are not used properly. It is important to follow the instructions to use them.

I would tell parents to use them every time. It is not an excuse that you are going five minutes to a store to get some milk or some ice cream. Once you get in that vehicle, buckle your child up, then buckle yourself up. And as that child gets older and understands, tell him why you are doing it. It is a good foundation for the future.

When we look at those 676 deaths of children last year, that is a tragedy. But if you look further into that number and you break it down, two-thirds of those deaths involved unrestrained children. This is a serious problem.

We perceive the big problem, in the contact of the child protection equation, to be nonuse and misuse. And it is everyone's job to do as much as we can to get the message out there, and we welcome this medium in order to get that message out.

We are involved. We conduct programs, and place advertisements to promote usage. We sponsor National Child Passenger Safety Week. But it is never enough. You have to get the message out. The fact that there has been improvement in the use of car seats is not enough, but it is significant. It shows a tremendous

track record and it does show a tremendous amount of excellent work done by a variety of consumer advocate groups, legislatures across the country in passing and enacting child protection laws, and also by NHTSA in administering, enforcing and pushing for the use of seatbelts and child car seats every time.

Now, there have been allegations that recall rates here are low and recalls are inefficient. But I would tell you that those recall rates are underestimated, and they are not inconsistent with comparable recall rates among a variety of government agencies.

The CAS has indicated a recall rate appr ximately of 5.4 percent. We find that to be understated. Many of the recalls they cite were recent recalls in 1989. Those corrective action campaigns continue to this day. They are still in progress. Some campaigns have more success than are reported in that report; It is misleading. This has the effect of bringing the average recall rate down. But never mind that for a second. Let us assume it is higher. There is room for improvement; Things should be done. Manufacturers will support efforts within NHTSA and within this committee and within the Congress to improve recall effectiveness.

But I would like to give you an idea of the scope of the problem faced. Not all corrective action involves an outright recall. Some may involve public notification campaigns advising the public to use a seat in a particular manner. In these types of campaigns it is difficult to measure the effectiveness as to whether the message gets out there. Most of the recall campaigns involving child car seats have involved these types of recalls.

With respect to the defects and noncompliance associated with these seats, that were recalled, most have been minor and have not been safety-related. Our own survey of our members shows that they do not have a record of one claim or lawsuit, on file caused by the noncompliance which made that seat subject to a recall or some form of corrective action. That is a telling real world statistic. The seats out there do work and they are effective. The allegations that there are many defective seats in the marketplace are not true.

With regards to allegations that use rates are increasing: yes, they are. Misuse is decreasing? yes, it is. Again, I would urge everyone to remember, it is not enough. If you look at the raw statistics, what that means in our population, it is tremendous.

Now, in terms of recall effectiveness, if we look at the recall effectiveness rates, in reality NHTSA has one of the highest recall return rates of any government agency, certainly in connection with motor vehicle campaigns. Even in these campaigns, at best they only achieve an effectiveness of 40 to 50 percent. Keep in mind that these campaigns involve expensive items, automobiles, which for most American families is a significant investment.

Given this interest and the use of direct notification systems that involve mailings through motor vehicle registration bureaus and registration systems, it is actually surprising how low that recall effectiveness rate is. And it is important to maintain this perspective when reviewing the issue of recall.

As an example, look at the Consumer Product Safety Commission, of which this committee also has oversight and about which we have submitted testimony before on behalf of other associations.

This is an agency that is responsible, that agency is responsible, for regulating almost 15,000 different types of products, not just one thing like a car seat or just not automobiles and car seats, but 15,000 different products, consumer products, a range, a broad spectrum of products.

In those cases, under a section 15(b) recall it has been estimated that certainly, in an analysis of recalls between the years 1973 and 1982, the recall effectiveness rate was 12½ percent involving substantial product hazards. In recalls involving products which failed to meet a safety regulation, a regulation comparable to what we have in FMVSS 213, the average effective recall rate during that same period was 4½ percent.

But why is this? You have to ask yourself. The reasons are complex. Issues and factors such as the useful life of the product, the cost of the product, the distribution of the product, all play a significant role in recall effectiveness.

If I am a manufacturer and I am going to recall a product, I have an interest in doing it because my reputation is at stake. I send out public notification and I send out press releases. I may do it jointly or I may do it unilaterally. I may even engage in advertising.

What happens? If that product is in the stream of distribution, I stand a very good chance of getting that product back. It is effective. The variety in recall rates that you see in looking at NHTSA's effectiveness in child car seats is certainly affected by that. If you have a number of products with retailers or in the chain of distribution, at that level, you stand a very good chance of getting it back.

Once it is in the hands of the public, you try to do as much as you can, but reality dictates that the issue of whether the public returns a product or uses it in a different way is very difficult to calculate.

As an example, a number of years ago everyone in this room may remember that there was a highly publicized campaign involving hair dryers that contained asbestos. In a post-recall survey and analysis, the CPSC discovered that over 85 percent of the owners of those hair dryers had received notification, knew that there was a problem, but only a third of those people who had hair dryers gave any indication as to whether they would stop using them or not. And of that group, in the overall measure effectiveness, only 4½ percent of consumers actually returned those hair dryers for a refund and exchange.

In the real world there is a certain level of consumer resistance that cannot be overcome, despite the best efforts of government and manufacturers and the media to publicize. Of course, this does not mean that we should stop trying. It is all worth our efforts in the long run. But we have to be realistic in those expectations.

Also keep in mind that, while roughly 30 million car seats have been sold in the last eight years, many of those have been discontinued in use. The projections that the CFAS provides does not take into account these variable factors, of how many products are in use or not in use.

If we used NHTSA's figures, or our own analysis which we believe indicates lower use, we estimate that currently today there are 4.2 million car seats sold annually and that there are 11 to 13

million seats currently in use. What does this mean in terms of the overall population and overall products distributed in the last eight years? Two-thirds of products that have previously been distributed are no longer in use. And that is a significant fact when you look at recall effectiveness.

Senator BRYAN. Mr. Locker, I do not want to cut you off and I want to give you a chance, but we can incorporate your full statement in the record.

Mr. LOCKER. I know we have time limits. I just would like to make some recommendations.

Senator BRYAN. Sure, please.

Mr. LOCKER. We believe that misuse and nonuse are the most serious problems. There is much to be done to get that message to the public, and it involves five to seven million children under four years of age who are not receiving the benefit of that protection.

The greatest enemy in this battle, as I have indicated, is apathy. Enforcement officials—we have the laws on the books—need to try to do more enforcement and training of their people.

In terms of the media, the media needs to do its fair share, too. It would not be too much to ask reporters who review, cover and report traffic accidents in their own localities, by a variety of means, to include in that report an indication, if there was a car accident, an injury or a fatality, as to whether the occupants were wearing seat belts? Tell the public that.

If there is a child involved, was that child in a car safety seat? Tell the public that.

Thank you.

[The statement follows:]

STATEMENT OF FREDERICK LOCKER ON BEHALF OF THE JUVENILE PRODUCTS MANUFACTURERS, ASSOCIATION

The Juvenile Product Manufacturers Asssociation is a not-for-profit trade association whose 200 members manufacture and produce a variety of childrens' products. These products range from cribs, high chairs, strollers, playpens, bedding, decorations, to an immensely diverse range of products designed to help parents care for their children. Our membership includes all of the domestic manufacturers of child restraint systems. Currently, there are six major manufacturers or distributors of child restraint systems who account for more than 95% of the 4.2 million car seats sold annually.

UNRESTRAINED CHILDREN ARE UNSAFE AT ANY SPEED

The need for child car seats is clear. I am here today to report on our industry's view of the State of the Union with regard to the use and effectiveness of child car seats. First, it is essential to understand the important function that these seats perform. It is clear that unrestrained small children are unsafe at any speed. Accident investigations conducted by the National Transportation Safety Board (NTSB) show that it is extremely dangerous for children to ride without proper protection in a motor vehicle at any time, under any circumstances.[1] Children have been killed or seriously injured on what parents may perceive as routine trips; within almost fifty yards of the family home; and while going to or returning from shopping, a baby-sitter, a relative, a local restaurant or a family trip to the ice cream

store.[2] Unrestrained children are more likely to be killed or to suffer severe injuries if they are being held in the arms of an adult or if they are ejected from the vehicle. Almost all fatal and serious injuries to unrestrained children result from head or spinal injuries when they are propelled into the instrument panel, windshield or other interior surfaces, or from the vehicle or into other restrained articles or persons in the vehicle. Unrestrained children being held in the arms of an adult are often crushed into the instrument panel or other interior surfaces by the weight and acceleration of the adult holding them or ejected from the vehicle and crushed when they collide with exterior surfaces such as another vehicle or the pavement. An unrestrained child is also in danger of being injured in certain common everyday driving incidents, even if the vehicle is not involved in a crash, such as sudden stops, swerves, turns and falling out of the vehicle. Additionally, unrestrained children can cause accidents which endanger not only the children involved, but every other passenger in that vehicle.[3]

HOW CHILD CAR SEATS WORK

Child car seats are specially designed to decelerate children in a controlled manner and restrain them to prevent, as much as possible, their striking the vehicle interior during a head-on collision or sudden stop. They are designed to provide more protection for small children than a standard vehicle safety belt. They work by using a safety harness or protection shield,

or both, to distribute the crash forces over a larger area of the child's fragile body than a safety belt does.

These seats are required to comply with Federal Motor Vehicle Safety Standard 213, Child Restraints, which require the seats to be configured to certain dimensions, to be labeled and provide important instructions on correct useage, to be fire-resistant, and to conform to certain dynamic performance criteria to ensure proper force distribution and restraint of the child.[4] Compliance with FMVSS 213 is administered by the National Highway Traffic Safety Administration, whose test programs extensively check for compliance by conducting large scale compliance testing of actual child car seats produced and available in the marketplace. This represents testing of over two hundred various seat models annually. Manufacturers are required to certify compliance before they market these seats. Manufacturers conduct pre-market dynamic tests with the same independent laboratories used by the National Highway Traffic Safety Administration (NHTSA) in its compliance program.

CHILD CAR SEATS ARE A RELATIVELY SAFE HARBOR IN A VIOLENT ENVIRONMENT

Child car seats are probably the single most effective safety device ever developed for use with a motor vehicle. When correctly used, a car seat reduces a child's risk of death or serious injury in a crash by 70%. Based on a study of actual fatal accidents over the 1982-87 period, child car seats reduced

infants' risk of death by 69% and toddlers' risk of death by 47%. This same study indicated that adult seat belts only reduced older toddlers risk of death by 36%. With 100% correct useage, even greater reductions in risk of death could be achieved.[5] In comparison, NHTSA estimates that adult lap and shoulder belts are 40-50% effective in preventing fatalities and 45-55% effective in preventing serious injuries for the population as a whole.[6] This is an impressive, real world indication of the effectiveness of child car seats. It is even more impressive when one considers that this is being achieved in a truly violent environment.

In 1988, 20.6 million accidents occurred involving 36.2 million vehicles. In these accidents, forty-nine thousand persons lost their lives, and one million eight hundred thousand persons sustained disabling injuries. The National Safety Council estimates that motor vehicle accidents cost our nation $1,991 billion dollars in 1988.[7]

NON-USE CONTINUES TO BE A PROBLEM

Given this violent environment, there is no doubt that fatalities do occur. Unfortunately, in 1988, 676 children died in automobile accidents.[8] The most striking feature of this statistic is that roughly two-thirds of the deaths involved unrestrained children.[9]

As might be expected, the number of fatalities among restrained children has risen as child car seat and adult belt useage increases. Our analysis indicates that the incidence of

fatalities involving child car seats in use is extremely low and shows relatively little deviation from year to year. This analysis was based upon a combination of the NHTSA's 19-city useage survey and the useage rate reported by the Fatal Accident Reporting System (FARS).[10] NHTSA's survey data is believed to slightly over-estimate the overall population and the FARS reporting system is believed to under-estimate the useage in the general population. Both, however, reflect extremely low fatality rates per child car seat in use and both reflect very steady performance. Our best judgment is that there are roughly 11-13 million child car seats in use with an annual fatality incidence rate of roughly .000011 (See Appendex II). Against this backdrop, it is important to consider the lives that have been saved. NHTSA estimates that child car seats have saved the lives of nearly one thousand children over the past ten years.[11]

It would be nice to think that every life could be saved but the answer to the question - Can all lives be saved? - is clearly no. Automobile crashes involve forces that are beyond our ability to cope with. Lap and shoulder belts, child car seats and even air bags can only provide a certain degree of protection. Fatalities and injuries do occur. We believe the number of fatalities and serious injuries of children in vehicular accidents could be significantly reduced. The data startlingly, but not unexpectedly, reveals that two-thirds of these deaths involve children who are unrestrained, which is to say who were not placed in a child car seats.[11]

NHTSA 19 city survey estimates that child car seat useage currently exceeds 80%.[13] It is estimated that there are over 18.25 million children from 0-4 years old in this country.[14] The implications are that 5-7 million of these children travel in motor vehicles without the benefit of a child car seat.

Consider, however, that the use of child car seats increased significantly from 1980, when it was estimated that child car seat use was only 15.2%.[15] These figures indicate significant and substantial progress in getting parents to use child car seats during the last decade. This increase in useage, in large part, can be attributed to intensive efforts by child passenger groups and the enactment in all fifty states and Washington, D.C. of child passenger protection laws, which in varying degrees require use of a child restraint system in vehicles.

MISUSE CONTINUES TO BE A SIGNIFICANT PROBLEM

Besides non-use, misuse is another significant problem that while showing signs of improvement, has not been truly abated. The improvement has been startling. In 1983, NHTSA estimated that car seat users correctly used these seats only 27.7% of the time.[16] However, by 1988, NHTSA's same estimate had improved significantly to 66.8%.[17] We believe that misuse by almost a third of the users of child car seats is still not satisfactory. Failure to properly anchor the child car seat to the vehicle with the adult seat belt, improper seatbelt routing

and failure to use the child's harness and/or shield properly are the major types of misuse that is prevalent. User apathy plays the largest part of this misuse. It is not enough for a parent to own a car seat. It is not enough for a parent to place that car seat in their car if it is not properly belted and used. Unfortunately, studies have shown that users often are not attentive enough, or worse yet, realize they are not properly using a car seat (i.e. facing the child in the wrong direction, not using the harness properly).[18]

The good news is that in the real world it is apparent that partially misused child car seats, even when used in a way which degrades their protective potential, continue to provide some crash protection in real-life crash situations.[19] However, grossly misused car seats provide little or no protection.

Child restraint system manufacturers have attempted to combat misuse by making their designs easier to use and more resistant to misuse. For instance, child safety seat models designed to require attachment of a tether no longer dominate the market. Regulations require manufacturers to clearly mark proper routing points for the seatbelt on the car seats. Many car seats now contain simpler and easier to use harness systems and some contain easier to use latching devices. Some models of seats contain automatic locking straps, similar to the types used on adult safety belts. However, in the final analysis only the user, only the parent of the child, can make sure that that seat is securely attached in their vehicle and that their child is put in

it and properly buckled up.

RECENT ALLEGATIONS OF INEFFECTIVE REGULATION OF CHILD CAR SEATS ARE UNFOUNDED

In light of the foregoing, it is truly unfortunate that the Center for Auto Safety (CFAS) has recently made many spurious allegations. They have misinterpreted facts and drawn erroneous conclusions. This self-styled public interest organization has elected recently to focus its attention on NHTSA efforts at regulating child restraint systems. In doing so they have detracted from, what we believe are, more serious concerns in the overall child passenger protection equation. Given the basic nature of the media and their "time bite" style of reporting we are concerned that unfounded accusations may undermine public confidence in the use of child car seats, when all the studies and scientific data clearly indicate that it is in the public interest to increase and promote the public's use of child car seats. It is all too easy to attack and blame others with hindsight, to make unfounded allegations and promote hasty conclusions. It is certainly easier than going through painstaking efforts to try to promote the use of child restraint systems and to curb misuse. Such efforts require constant, painstaking effort to route out the complex reasons for ignorance and apathy that result in the non-use and misuse of child restraint systems by the public.

This is not to say that the CFAS has not made some valid

points made in the public interest. We would agree and support suggestions that NHTSA review ways in which to increase the effectiveness of recall and corrective action procedures in situations where child car seats have been found not to be in full compliance with the Federal standards. Our industry wholeheartedly supports such efforts and will cooperate fully in seeking ways to improve cost effective recall effectiveness.

We believe, a review of the data compiled by the National Transportation Safety Board (see Footnotes 1 and 28), by NHTSA (see Appendix III), an individual "targeted" manufacturer (see Appendix III) and the testimony here today, effectively respond to CFAS's allegations. However, I would like to comment on CFAS's allegations and inflammatory statements about recall effectiveness in twenty-two recalls involving approximately 5.6 million seats.

NHTSA RECALL RATES ARE UNDERESTIMATED AND NOT INCONSISTENT

CFAS has indicated a recall rate of approximately 5.4% and alleges this to be significantly lower than comparable corrective action efforts by other federal regulatory agencies. The first thing to note is that the recall rate cited for some of the corrective action campaigns are clearly understated. Some are 1989 campaigns still in progress. Some campaigns have been more successful than reported. This has the effect of bringing the average recall rate down. Most corrective action does not involve a recall of the car seat at all, but may involve a public notification campaign to use the seat in a particular manner.[20]

It is these corrective action programs that the CFAS attributes a low effectiveness rate to. These are also denoted by asterisks in their reports denoting subjective projections by CFAS. CFAS has also ignored and failed to distinguish that many of the corrective action programs involve products which in real world useage have not significantly increased the risk to the safety of the occupant in crashes. The Association's initial survey of members indicates that none of the major manufacturers whose seats were subject to recall have had any claims of death or injury proximately caused by the seat's non-complying feature or aspect. Nevertheless, having raised the issue of recall effectiveness, we would like to make the following comments on the effectiveness of recall programs in general.

Recall and corrective action rates vary markedly from recall to recall, depending upon a wide range of variables. The most significant variables are the price of the product, the expected useful life of the product, the number of products in distribution, the age of the product, the percentage of products in consumers' hands, the type of corrective action sought, i.e., repair, exchange or public notification and circumstances peculiar to each corrective action campaign. Infant car seats specifically intended only for young infants, for example, have a relatively short useful life and are likely to be discarded or discontinued in use after a few months. Additionally, products within the distribution channel, i.e., in warehouses or sitting on retailer's shelves, are more likely to be recovered in a recall than products

in the marketplace and in consumer use. Additionally, there is no way to tell how many consumers receive notification and discontinue use of the product without seeking a refund or exchange. It is also difficult to ascertain how many consumers receive notification regarding the use of a product and whether or not they will elect to use it that way or not or respond to the recall.[21]

In reality, NHTSA probably has one of the highest return rates of any governmental agency in connection with motor vehicle recall campaigns. Even these campaigns, at best, only achieve an effectiveness of 40% to 50%. Keep in mind that these campaigns involve expensive vehicles that cost the consumer thousands of dollars, extensive recall efforts through comprehensive dealership records and registration data maintained by motor vehicle bureaus and in some cases may involve a serious vehicle defect.[22] A car is a major investment for most consumers and they have a strong interest in maintaining it. Given this interest and the use of direct notification systems that is seldom possible in other product recalls because individuals cannot be as readily identified, it is surprising that the recall effectiveness rate for cars is still quite low. It is important to maintain this perspective when reviewing the issue of recall effectiveness.

As an example, at the Consumer Product Safety Commission (CPSC), an agency responsible for regulating almost fifteen thousand different consumer products recalls under Section 15(a)(2) of the Consumer Product Safety Act involving imminent and

substantial product hazards between the years 1973 and 1982 resulted in a recall effectiveness rate of 12.5%. Recalls of products in violation of safety regulations under the CPSA, FHSA or FFA (regulations similar to FMVSS 213), resulted in an average recall effectiveness rate during the same period of 4.5%.[23]

The reality is, even when consumers do receive a notice of recall, they do not always respond. As an example, a number of years ago, in a highly publicized recall of hair dryers that contain asbestos, the CPSC found that while 85% of the owners were aware of the recall, only a third of those whose hair dryers contained asbestos stopped using them, and of that group only 4.5% took advantage of the repair, refund or replacement alternatives offered by the manufacturers.[24] In the real world, there is a certain level of consumer resistance that cannot be overcome despite the best efforts of the government and manufacturers to publicize a problem and offer relief. Of course, this does not mean that we should stop trying. But expectations must be realistic.

Also, with respect to child car seats, keep in mind while roughly 30 million car seats may have been sold in the United States during the past eight years, as children get older these seats are discontinued in use, the greatest percentage of seats used in the marketplace are likely to be recently purchased ones, and of that total, we would estimate that more than one-half have been discontinued in use because earlier produced seats have likely outlived their usefulness.[25]

CHILD PASSENGER SAFETY IS A CONTINUING OBLIGATION

As an association dedicated to children, we also believe that it is important not to overlook the importance of continued public education about the importance of seatbelt use among children past the toddler stage, that is to say, over four years of age. Parents who have a child who has graduated from a child car seat or booster seat should be urged to use the vehicle's lap and shoulder belts.

Belts should never be shared, and the common misuse of placing the shoulder strap behind the child's back should be avoided. Two children sharing the same seatbelt in a collision can result in a tremendous increase in the injury severity to both children as they collide violently into one another. The heads and shoulders of the children can strike one another. Failing to use the shoulder belt places the child in a lap-only belt situation. A lap belt can cause serious spinal, head or abdominal injuries to a child. Lap shoulder belts should be used correctly, just as a child safety car seat must be used correctly to receive full crash protection. Keep in mind that physiology and anatomy of children is not the same as adults. There is a greater need to distribute the force of a crash impact more evenly over a child's body. This is aided by the use of both the lap and shoulder belts. Obviously, when using the shoulder belts, parents should make sure the child is old and large enough so that the shoulder belt fits correctly.[26] The good news is that it seems that

children are much more attuned to wearing lap and shoulder belts than were their parents. This rise in useage continues.

The JPMA recommends, however, that children be kept in child restraint systems as long as possible. A restraint especially designed for a child's body is always to be preferred over a seat belt which is designed for an adult's body.[27]

RECOMMENDATIONS AND COMMENTS

The most serious problem continues to be the non-use and misuse of child car seats. Significant strides have been made to improve the use and minimize the misuse of child car seats over the last seven years. There is much to be done. It is not satisfactory when 5 to 7 million children under four years of age are not receiving the benefits of child car seats, despite child passenger protection laws in all fifty states. Also, while While the industry has made significant improvements in designing child car seats that are easier to use and which afford significant protection to children in the violent world of vehicle collisions and accidents, it is not satisfactory to us as an industry dedicated to children and as parents ourselves that a third of the users of these child car seats misuse them.

The greatest enemy in this battle for wider proper useage of child car seats (and it is a battle) is apathy. The primary goal of all of us should be to increase use of child car seats. They are effective in saving children's lives and preventing serious injury to children. It is important that the public be

reminded of their useage as often and through as many means as possible. Even when partially misused, child car seats offer significant protection to children in vehicles.

The media must and can play an important role in educating the public. Reporters have themselves conceded that it is unfortunate that all too often the media only understands the value of a story if it is sensationalized. Nothing is more tragic than the scene of an accident where an unrestrained child has been killed needlessly because that child was not placed in a child car seat; it would help tremendously if the next time a reporter reports on a traffic accident (whether it be by television, radio or newspaper), that reporter were to indicate whether the occupants of the vehicles involved in that accident were wearing seatbelts or whether children were placed properly in a child car seat or not. If made a general practice, something as simple as that could have a profound long term beneficial effect with the public.[28]

The existence of child passenger protection laws in all fifty states was a significant step forward in increasing use rates for child car seats. But a law in and of itself does not save lives. In order for such laws to continue to have an effect, they must be vigorously enforced with the active support of local law enforcement officials. Loopholes and exemptions which exist in a variety of state laws must be eliminated.[29] It is not sufficient for a law to allow an infant or small child to be removed from that seat for the purposes of changing its diaper or

feeding when that car is in motion. Local police officers should be rewarded for issuing citations. Next time you have a few minutes at home, call your local police department and ask them how many citations they have issued in the past year to drivers who have failed to place small children in their cars in child car seats. Also, fines should be increased for failure to abide by these laws. Law enforcement officials can also play a larger role in trying to get child car seats used properly.

To the public I say the next time you see someone in a car with a small child who is not in a car seat, don't be embarrassed - say something. It is important to constantly publicize and provide funding for the education of the public on this important issue. I know industry will work with consumers and government in trying to get the message out and remind users of child car seats to use them consistently. When you get in that car with your child it should be second nature to you to buckle your child up and then to buckle yourself up and make a point of telling the child that it is important. Take a few minutes out periodically just to check and make sure the child car seat is securely anchored to your vehicle with the adult seat belt and to make sure the harness or shield is used properly and don't cave in to the crying and wiggling of a child who wants to get out of their seat. The momentary inconvenience to you and your child might one day mean the difference between life and death.

Notes

1. National Transportation Safety Board Safety Study - "Child Passenger Protection Against Death, Disability, and Disfigurement in Motor Vehicle Accidents" NTSB/SS-83/01 (PB 83-917005)

2. Ibid.

3. Ibid.

4. 49 C.F.R. 571.213; 49 C.F.R. 571.302

5. National Highway Transportation Safety Administration Report - "Lives Saved by Child Restraints from 1982 through 1987" by Susan C. Partyka, December 1988
See also NHTSA Letter at Appendix 3

6. Partyka, Susan C., telephone interview - National Center for Statistics and Analysis, National Highway Traffic Safety Administration

7. National Safety Council - "1989 Accident Facts"

8. Partyka, Susan C., telephone interview - Fatal Accident Reporting System data - National Center for Statistics and Analysis, National Highway Traffic Safety Administration

9. Ibid

10. Juvenile Products Manufacturers Association - Analysis of Fatal Accident Reporting System data and NHTSA's 19-City Survey data (See Appendix II)

11. National Highway Transportation Safety Administration Report - "Lives Saved by Child Restraints from 1982 through 1987", supra
(additional years' data also provided by Susan C. Partyka, telephone interview)

12. Partyka, Susan C., telephone interview - Fatal Accident Reporting System data, supra

13. National Highway Traffic Safety Administration Report - "Use of Child Safety Seats", Peter N. Ziegler Research Notes (Office of Driver and Pedestrian Research), April 1989

14. Population of the United States, Statistical Abstract

15. National Highway Traffic Safety Administration 19-City Survey, 1985 and 1988 (Office of Driver and Pedestrian Research)

16. National Highway Traffic Safety Administration Report - "Use of Child Safety Seats", supra

17. Ibid.

18. National Highway Traffic Safety Administration Report - "The Incidence and Factors Associated with Child Safety Seat Misuse" by Michael J. Cynecki and Michael E. Goryl, December 1984

19. National Transportation Safety Board Safety Study - "Child Passenger Protection Against Death, Disability and Disfigurement in Motor Vehicle Accidents", supra

20. A review of National Highway Traffic Safety Administration Recalls establishes that most of the seats recalled involved non-crash related problems or public notification not to use a seat in a particular manner

21. U.S. Consumer Product Safety Commission - Recall Effectiveness Study, by Loren Lange, Planning Division, Office of Strategic Planning, May 1978

22. Report for the Administrative Conference of the United States - "Product Recall - A Remedy in Need of Repair", by Teresa M. Schwartz, Professor of Law, George Washington University Law School and Robert S. Adler, Attorney, Consumer Product Safety Commission, see copyright 1983

23. Ibid.

24. Consumer Product Safety Commission - Report of the Recall Effectiveness Task Force, August 25, 1980

25. Based upon projections derived from application of estimated child car seat usage percentage by age group (NHTSA 19 City Survey) to population statistical abstract table contained in Appendix III

26. National Transportation Safety Board Safety Study - "Performance of Lap/Shoulder Belts in 167 Motor Vehicle Crashes" (Vol. 1) NTSB/SS-88/02 (PB 88-91702)

27. Ibid.

28. National Transportation Safety Board Safety Study - "Child Passenger Safety Symposium - Ways to Increase Use and Decrease Misuse of Child Restraints" NTSB/SS-85/03 (PB 85-917013)

29. Ibid.

Senator BRYAN. Mr. Locker, we thank you very much, as we do each member of the panel.

Mr. Ditlow, let me begin with you, if I may, and I would kind of like to focus not so much on the statistical conflict here, because based upon General Curry's representation, which I take it was new and refreshing commentary from your perspective, we are going to all have access to that. We can reach our own individual conclusions, and you may want to modify or at least update your own report after seeing all of that data.

But let us talk about the process itself. Pretty clearly, I think the testimony this morning indicates that there is an area for a good bit of improvement.

I am going to ask each of you gentlemen for your comments, but let me begin, if I may, with you, Mr. Ditlow. Let us talk about the initial classification process. That is, which seats do get investigation, which ones do not? It appeared to me from the testimony this morning that there is no objective criterion.

In fact, I believe the testimony was that it is an engineering judgment, not made individually but by a group. But pretty clearly that is a subjective criterion. Maybe that is the only thing we can do.

Your comments? Can we do better in making a threshold determination?

Mr. DITLOW. We certainly can. The first thing we should do is have a full and open record.

Senator BRYAN. I do not disagree with that.

Mr. DITLOW. The initial judgment is that there is a compliance test failure, and that is made by the contractor for the agency, which in this instance is Calspan Corporation.

Senator BRYAN. Parenthetically, do they do a pretty good job from your perspective?

Mr. DITLOW. Yes, they do a pretty good job. What happens is, according to the NHTSA procedures and as reported in our report, once the compliance test failure is noted NHTSA is to notify the manufacturer immediately and send them a copy of the compliance test report.

Of the 47 compliance test failures that we have found without investigations, at the time that we did this, we could find no record that the manufacturer had ever even been notified. Since then NHTSA has indicated that perhaps in about half of these, they have notified the manufacturer. But according to the procedures there should have been an investigation with the engineer's judgment as to why this was not a violation.

Senator BRYAN. So you are saying that there has been a compliance failure and that is the triggering event which ought to prompt an investigation, if I am understanding your testimony?

Mr. DITLOW. That is correct, and that is according to their own procedures and regulations.

Senator BRYAN. Would you make a distinction? Some of the defects or failures would appear to be from a layman's perspective technical and administrative, as opposed to substantive and dealing with issues that all of us in this room would agree are safety-related.

Is there a basis to make a classification? And if there is, might that not suggest a bifurcated approach? Clearly, if it is an administrative type of violation, one would handle that with less urgency than something that is safety-related? Or do you agree, Mr. Ditlow?

Mr. DITLOW. We believe that procedure already exists. There is a de minimis provision in the Safety Act for when a noncompliance with the standard is a de minimis violation. And the agency makes this determination all the time. We think that they should go through that process for the child seats.

Senator BRYAN. If I might respond—I am going to give you all the time in the world if you need to respond, so do not feel I am trying to cut you short.

Okay, at that point, under the de minimis procedure, is an investigation opened then?

Mr. DITLOW. There would be an investigation that is opened. The manufacturer is notified of the violation. The manufacturer should come in and petition the agency that this violation should be held to be de minimis. That is provided for within the Safety Act itself.

Senator BRYAN. So you are saying even under the de minimis category there is always an investigation, as I understand your testimony. I want to make sure that I understand that.

Mr. DITLOW. Yes.

Senator BRYAN. Because the process is important if we are going to correct the problem.

Mr. DITLOW. That is right. We would not object to the Office of Vehicle Safety Compliance taking a leaf from the Office of Defects Investigation, which is to have a lower level preliminary evaluation at which this process could be handled and close it out, with an on-the-record determination.

What we have right now is we can look at some of these violations, such as the Strolee Ren-o-Lex which you cited earlier, where it is clearly a serious safety violation; or in the event of the three One Steps that were not investigated, that there clearly is a serious violation. But we have no on-the-record determination as to why there was no investigation and why parents should buy this seat over another seat.

The one thing that we need to take into consideration is that this is also a consumer information program. And when parents go out to buy seats they should know which seats passed the 213 without any question whatsoever.

Senator BRYAN. Sure. Let me get back then. There is an investigation done, there is a de minimis judgment or determination made that it is non-safety-related. You acknowledge that is a proper function.

Would you agree that the amount of time that would be spent on that type of a problem ought to be proportionately less than the kinds of problems that you find with the GT-3000, for example?

Mr. DITLOW. We would certainly agree with that. And then they could move more rapidly on the GT-3000's. There is no reason why any investigation takes two years. We think that there should have been a press release issued on the GT-3000 back in early 1989, when they knew the manufacturer was bankrupt.

Senator BRYAN. I am troubled by that, too, Mr. Ditlow. But aside from the GT-3000 or some of the others that you specifically cited,

I want to get your thoughts for the record in terms of how we can make this process better serve the public.

With respect now to the investigation that is more serious, that it is safety-related, even though I am sure you would agree that there are various gradations of that as well, then you notify the manufacturer of the compliance test failure. You have the investigation.

What then ought the process to be and how does that differ from the process that is being presently pursued by the agency?

Mr. DITLOW. The agency at present does not seem to do an investigation after the noncompliance failure. So the first step that you are adding is that there be an investigation.

Senator BRYAN. Okay.

Mr. DITLOW. They can categorize that as a low level investigation of defects, which they do, or a high level investigation. We have no objection to that process. But there should be an on-the-record investigation; and if the investigation is closed out put the reason in the record so that consumers and the public can have confidence that it was legitimate.

Senator BRYAN. And that should be of public record in your view?

Mr. DITLOW. That is absolutely correct, and in fact it is a public record in the defects area. It is just not a public record in the vehicle safety compliance area.

I would like to point out, Senator Bryan, others of these compliance tests where there have been failures, ones like where there is no crotch strap, we have been able to demonstrate accidents where the lack of a crotch strap in the opinion of the parents and the attorneys representing the child contributed to the injury.

Senator BRYAN. Sure, and I have read those. I have read your report as well as the prepared statement.

Take me through the process, Mr. Ditlow, in terms of how it ought to be, as opposed to the way it is. We have got now an investigation. We have now something that would be serious in your judgment.

The investigation then is expedited, presumably, because of its potentially serious nature. At what point does the recall process begin or at what point should it begin? In other words, take me through a hypothetical situation.

Mr. DITLOW. The compliance test failure immediately triggers the investigation. The manufacturer is notified within 24 hours, as the agency's regulations provide. An investigation is opened and within 30 days thereafter they should be able to determine whether it is a de minimis violation or whether to step up to the next level.

If they go to a higher level, if they find that it is in fact a serious noncompliance, they should at that point ask the manufacturer for all reports of accidents and injuries involving that child seat.

Senator BRYAN. Hard to quarrel with that.

Mr. DITLOW. Which they presently do not do.

Senator BRYAN. Hard to quarrel with that.

Mr. DITLOW. When they go to that next level of investigation, they should within six months thereafter clearly complete that investigation, make the recommendation to the Chief Counsel's

Office as to whether or not there should be a recall, have him sign off on it, and take an appropriate enforcement action.

There should be no child seat investigation in our minds that should take longer than nine months to carry out. The one thing right now that we see, which we have demonstrated at least six cases, where in fact the engineers did make that recommendation and the lawyers said no. And when you look at our report, we have two pages of blank reasons as to why that happened, because they were held confidential.

And we are glad to see, General Curry is going to take up one of our recommendations, which is to make that all public.

Senator BRYAN. And Mr. Ditlow, as an aside let me ask you, if you will, to prepare something in a reasonably abbreviated form for a Federal document—and that may be an oxymoron, I am not sure—but to outline the procedure as you understand it being pursued, the de facto procedure.

It may not be the de jure procedure, but the de facto procedure. And if you will, parallel what you think ought to be the procedure. And again, you do not have to do so with respect to any particular defect or any compliance test failure.

But I am interested in improvement in the process itself, and if you will share that with us.

Mr. DITLOW. We would be glad to.

Senator BRYAN. I know your report contains that, but I am interested in seeing it more graphically displayed, so we can follow step one, step two, step three. Some of us were educated under the old math and it is very difficult to follow some of these glitzy things that you younger fellows prepare for us.

Also, would you share with us now what you think we can do? Everybody seems to agree that the recall process is not very effective. General Curry I thought was rather candid to say that—he did not use the word "abysmal," but he said it was much, much lower than it should be.

What can the agency do? What can the Congress do? What can the public do? Talk to us about recall and notifying the public.

Mr. DITLOW. Once the decision is made to do a recall, there should be an immediate press release issued by the agency on that date, alerting the public to the recall, stressing to the public that they should bring their seat back, participate in the recall, and get the best possible seat available. The government's endorsement, the government's release to the public and to the media, will ensure that there is greater dissemination of that information.

Senator BRYAN. Sure.

Mr. DITLOW. One only has to look at CPSC recalls, where CPSC does releases on them, you can see that is one of the reasons why CPSC does better. The second thing is we would like to see the manufacturers do paid advertisements, not a press release that comes out on a Friday evening that gets no coverage.

The third thing is—and I am getting up to the registration system.

Senator BRYAN. That is fine.

Mr. DITLOW. the third thing is that the manufacturer should better notify their retailers. When we can go to retailers throughout the country, as many as 40 of them on a single recall, and not

find a single retailer that knows anything about the recall, then obviously that message is not getting to the retailers. We would like to see retailer training, and the manufacturers are going to have to emphasize that as a management priority.

And then finally, we would like to see a registration system for child seats.

Senator BRYAN. Mr. Ditlow, would you prepare for us what you would consider a model protocol for the notification, recall, and implementation process as you have outlined there? And I know you do so in the context of the document, but something that is step one, step two, step three, step four, step five.

Is it your view under the existing law and the enabling legislation that the agency operates within that they would have the power, if they chose to do so—let me underscore, if—to in effect adopt the protocol which you have just suggested? And if not, where does the Congress need to fill in the blanks?

Mr. DITLOW. We believe that the agency does have the existing authority to do that.

Senator BRYAN. Even with respect to the registration concept?

Mr. DITLOW. Even with respect to the registration concept. And we believe that the agency does agree with our interpretation of the Act.

Senator BRYAN. Mr. Ditlow, we thank you.

Mr. Haseltine, let me take you through that process, if you will, and maybe in the interest of your time—and I suppose lunch is on the agenda for some out there as well—do you agree or disagree with the process that Mr. Ditlow outlined that he would like to see?

Mr. HASELTINE. I agree with many aspects of it. First of all, I am not as certain as he that the process is working as poorly as he suggested to us today. I, like yourself, Mr. Chairman, would be interested in seeing what General Curry provides. I remain open there.

The notion that if NHTSA has procedures in place and is not following its procedures, for whatever reason. If the procedures themselves are improper, then they ought to be changed. If the procedures are proper, they should be followed.

Senator BRYAN. That is a very controversial observation, Mr. Haseltine.

Mr. HASELTINE. And yet, and yet several people have discussed it at length today.

Senator BRYAN. Yes, I know that.

Mr. HASELTINE. But that particular point has not come up. If the procedure is wrong, let us change it; if not, let us follow it, very simple.

Senator BRYAN. You have a great career ahead of you, sir, with that kind of powerful logic and common sense insight.

Mr. HASELTINE. I have already concluded my government career, Mr. Chairman, thank you.

Senator BRYAN. I hope it was not at war with your basic philosophy, because I find it hard to quarrel with.

Mr. HASELTINE. I will remember that, sir.

With respect to the de minimis or inconsequential provisions in the current standard, I believe that it makes sense to reopen that issue. The legislative history suggests that minor labeling errors

are the kinds of things that are examples of inconsequential errors. And my question is should other aspects of the standard, such as buckle corrosion testing, be included in that?

I do not pretend to have the answers, Mr. Chairman. I think it is the kind of issue, and it is a fairly complicated standard, as you know, and I have been reminded by rereading it recently, I think it is the kind of issue that perhaps should be addressed in a docket through some type of a rulemaking mechanism, at least on an exploratory basis.

Generally, I concur with what Mr. Ditlow says with respect to the recall completion rate process not being good enough. I do not have all of the answers. As I said in my prepared statement, I suspect that some form of manufacturer-based registration probably is necessary to really push those recall rates up.

What form that takes, again I think it is a good opportunity to use the regulatory process and submissions from manufacturers, consumer groups and others through a docket, to figure out exactly the best. I do not pretend to have the answers there.

But to me, in both of those areas, those are my two general suggestions. I reiterate and conclude by reminding us again that the larger problem still is correct use and use by all parents, not to minimize the serious subjects that we are speaking about here.

Senator BRYAN. I think we would agree with that.

Let me get back to the threshold suggestion that Mr. Ditlow makes. Do you agree with the premise that every compliance test failure ought to warrant an investigation?

Mr. HASELTINE. It depends on how you define "investigation." Frankly, I will be pleased to respond to that in a little more detail for the record. I want to go back and look at what the definition of "investigation."

Clearly, when something is wrong the appropriate people in the regulatory agency ought to take a look at it and make a determination, an educated determination of what the proper procedure for moving forward should be. But what the nature of that investigation is, I would like to do a little background work and provide a response for the record, Mr. Chairman.

[The following information was subsequently received for the record:]

In reviewing NHTSA's practices with regard to compliance test failures, a NHTSA engineer evaluates each and every test report in cases where it appears that a vehicle or item of equipment may not have met a particular safety standard.

It is my understanding that in such cases, the engineer notifies the manufacturer by phone and sends the company a copy of the test report. This does not mean that an "investigation" is automatically triggered with this notification. The engineering staff in the Office of Vehicle Safety Compliance then evaluates the test failure and applies professional engineering judgment as to whether or not to open an NCI—Non-Compliance Investigation. As I understand it, this judgment is based among other factors on the seriousness of the failure, its effect on safety, the margin of failure involved, etc.

Such a determination, based on the facts of the situation, is fully appropriate in may judgment.

Senator BRYAN. Well, the wordsmiths among us will have a field day with that. But I think his point is and he can offer contradictory comment if he cares to do so, that there ought to be at least an inquiry. "Investigation" to me has a higher level of cognizance

than does an inquiry, preliminary evaluation, all of these subtleties and nuances that we have crafted into the language.

But pretty clearly you are saying, as well as Mr. Ditlow, there are some things that are a hell of a lot more serious than others, and things that are more serious, we sure ought to jump on them faster and harder; and the things that are not so serious, at some point we ought to close those down. Mr. Ditlow says we ought to have a record of why it was closed down, and I must say I do not find myself in disagreement with that.

Mr. HASELTINE. Nor do I.

Senator BRYAN. Last question to you, Mr. Haseltine, and that is, do you find that the agency, in your judgment, follows its own procedures in these various steps that we have talked about? Or do you have any insights to share?

Mr. HASELTINE. In general, I am going to say yes, and that relates to my experience with the agency in areas other than strictly child passenger safety. Again, I would be interested to see what the Administrator provides in terms of additional information to the subcommittee.

In general, I suspect that the extent to which they follow procedures is probably somewhat greater than Mr. Ditlow's belief. But again, I would like to see more, too, sir.

Senator BRYAN. Mr. Ditlow, maybe at the time that you prepare those couple of things for the committee that I have requested that you do, that is a step by step procedure that we are talking about, as well as the notification and recall protocol, would you send to Mr. Haseltine and to Mr. Locker a copy of that as well? I would appreciate it if you would do that.

Your suggestions are public record as well and I am sure you have no objection to that.

Then I would like to ask Mr. Haseltine and Mr. Locker, once they get that, to comment, to say you agree with Mr. Ditlow, you disagree with Mr. Ditlow, and your own thoughts.

Mr. LOCKER. We would be happy to do that, sir.

Senator BRYAN. We would appreciate that.

And we do have your commitment, I think, Mr. Ditlow. For the record, you have nodded and that means yes?

Mr. DITLOW. We operate in a fishbowl. We would be more than happy to do that. Nothing is confidential with us.

Senator BRYAN. Those of us on this side of the table do as well, I might add.

Mr. Locker, let us take you through the process. You have heard the colloquy that we have had with Mr. Ditlow and Mr. Haseltine. Your comments? Do you agree generally that every compliance test failure ought to have an investigation or something that indicates that you do something other than just tuck it away in the file?

Mr. LOCKER. Absolutely, there should be some level of inquiry. I do not think it should necessarily be a full investigative inquiry, and I think you cannot do things which limit regulatory agencies' discretion to review these things. These are engineers, people and even staff lawyers that presumably have a degree of expertise in this area.

I have been on the other side of the issue. I have represented manufacturers who have had their products recalled. For the most

part, in my opinion NHTSA always has acted in cases, I have been personally involved with, quite quickly, indeed quicker than many other agencies that we deal with, and the manufacturers have received notification.

There is a point I would like to bring out, though, about the process, and that is this is not like a lot of other government standards that you have affecting consumer products. With most standards manufacturers are expected to self-certify, and they have innumerable laboratories available to test.

In the case of actual crash testing and motor vehicle equipment, in particular car safety seats, there are only two sources within the entire country that are capable of performing that test. And most of the manufacturers who do test their products test at Calspan or the other facility.

They test in accordance with the standard, according to the same testing criteria used by NHTSA. So very often those tests are performed at the same place. And they are required to test and maintain that information of compliance before they market their seats, and they do that.

Senator BRYAN. These independent testing laboratories or companies, do they do a good job?

Mr. LOCKER. Yes, I think they do an excellent job. Now, sometimes there are marginal differences and it is hard to explain it from an engineering point of view or otherwise. You might have a hundred tests that show compliance and one that shows a problem. But those tend to be the marginal issues.

For the most part, the testing methodology is excellent and the laboratories do a good job.

Senator BRYAN. Any comments that you would care to make with respect to the notification and recall process? I know you commented in your testimony.

Mr. LOCKER. Yes, I have commented generally about the process. But specifically our industry certainly would support enhanced efforts at recall efforts. I think the appropriate place for that is by a rulemaking proceeding at the agency. I think they clearly have the authority under their enabling statutes to do that and to even go through a variety of processes.

As to specific registration, the industry is not opposed to it. We would like to wait and see what sort of form it would take, whether it would involve retailers or manufacturers, warranty cards, et cetera.

I would note that in practical experience, based upon what we see of registrations of products of these price points and these types and even more expensive price points, like NHTSA attempted with tires, it does not necessarily translate intc higher recall rates.

Senator BRYAN. I understand. You can lead that proverbial horse to water, I understand that, Mr. Locker.

Mr. LOCKER. Yes.

Senator BRYAN. All right. Well, gentlemen, your testimony has been most helpful, most appreciated. We will look forward to seeing your comments and, Mr. Locker, Mr. Haseltine, your response. Thank you.

Now we are ready to begin our concluding panel, four patient panelists. There is Dr. Mark D. Widome. He is a physician with the

American Academy of Pediatrics. And there is Mr. Brian O'Neill, President of the Insurance Institute for Highway Safety.

Captain Raymond D. Cotton from the Maryland State Police. He is the Commander of the Northern Troop. Captain, it is good to have you with us this morning. And Mr. Vince Burgess, the Administrator, Virginia Transportation Safety Administration.

We appreciate your patience. Thank you very much. We will begin, doctor, with you.

STATEMENT OF MARK D. WIDOME, M.D., ON BEHALF OF THE AMERICAN ACADEMY OF PEDIATRICS

Dr. WIDOME. Thank you very much, Mr. Chairman. It is a pleasure to be here.

I am a general pediatrician at the Pennsylvania State University College of Medicine in Hershey, Pennsylvania. I am here testifying on behalf of the American Academy of Pediatrics.

Senator BRYAN. They do other than make chocolate, then, at Hershey, I see.

Dr. WIDOME. We take care of lots of children and babies. And one of the things we do is we talk to parents every day of the week about recommendations for safety in general and particularly transportation safety.

So the issue is a very important one to pediatricians and a very important one, we know, to the parents of the children we take care of, because the questions are there all the time: What kind of safety seat should I use, should my child graduate into a booster seat, is my child big enough to use the car's lap belt or lap/shoulder harness?

Senator BRYAN. Doctor, if we could ask you after you finish your little testimony, maybe we could get you to demonstrate some of those seats for us if you would.

Dr. WIDOME. I would be glad to.

Senator BRYAN. Good.

Please proceed.

Dr. WIDOME. Thank you very much.

We are here today because we have a number of concerns, and in fact the largest concern is the concern raised by the November 1989 study by the Center for Auto Safety, which called into question the safety of many of the seats that were on the market.

We were very concerned that study drew attention away from what we perceive to be the major problem in automobile safety, and particularly child transportation safety. And that problem is that too few of the seats are used correctly on every single ride.

If you look at NHTSA's own data, at the total number of lives saved and the potential numbers of lives saved, you come to the conclusion, and you can come to no other conclusion, that many of these seats are being used incorrectly. Some studies show one-third to two-thirds. We have heard about that this morning.

For too many families, the seats are not used at all. And I would draw your attention specifically to the NHTSA 19-city surveys, which at the beginning of the decade showed something like 25 percent use in observations at shopping centers and toward the end of the decade was showing use of 84 and 95 percent.

Those numbers in fact are very misleading, and I think the people from NHTSA would agree with that, because if you look at the people who are involved, who survive fatal crashes, we are talking about numbers of one out of four only, at best one out of two of those children who survive fatal crashes were strapped into car seats.

So the people that we see in the surveys that we hear about that show these very high usage rates are not the same people that are involved in serious high-speed crashes. They are a different population.

We know in adults that the people who wear seat belts are not the people that are most likely to be involved in serious nighttime crashes, where we have such high fatality rates. And in fact, we do not have 84 and 85 percent usage rates. We have usage rates that are considerably lower than that.

Unfortunately, because of the numbers of designs in car seats and the circus of different kinds of seat belts that are available and different models of cars with seat belts of different lengths, it is terribly, terribly confusing for parents.

Parents will come to me in the office and ask me about the correct way to use a particular car seat, and I think I am familiar with a good number of the models, but I need to have them bring the car seat in and let me look at it, because I know that it is not an easy thing to use a car seat in a car unless you have read the instructions very, very carefully and you are very, very conscientious about doing it.

So while there is no question that there are seats out there that perhaps could be better and while there is no question that there are seats out there that may have various features that are not in compliance with standard 213, I think we have to give the message to families in this country that the seats out there are basically very good and they save hundreds and hundreds of lives and in fact prevent thousands and thousands of injuries.

They only do so if they are used correctly. They only do so if parents take the time to read the instructions and to make sure that they use them for every ride in the automobile.

A couple other very brief issues, and I know the hour is late and I will not take much more of the committee's time. But I would stress an issue that is very important to the Academy of Pediatrics, and that is the importance of providing upper torso protection to people that are in the rear seats of automobiles.

Now, we know that in the new cars sold this year the outboard positions in the rear seats all have three-point harnesses to prevent people from flipping forward when they are in the back seat of the car. The problem is that most of the cars out there, and particularly the cars that are several years old, have only lap belts in the back seats.

Too often a child or an adult, while protected and much better off than wearing no seatbelt at all, is flipped forward, their head travels too far forward, and comes in contact with other objects in the car. And, more disturbingly, the spine of the adult or the child could actually serve as a fulcrum and you could have damage to the back and particularly to the spinal cord.

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So I think one of the things that I would urge this committee and NHTSA to take a look at is the possibility of getting three-point harnesses retrofitted into cars that are already out there. They already have the anchorage points.

But when I talk to parents, they find when they go to the car dealer, the car dealer knows nothing about it, is unwilling to order the parts, and they just have no option other than buying a new car to offer their children the three-point protection in the back seats.

It is unfair. The adults have the three-point protection in the front seat. The kids have to make do with inferior protection in the back seat.

The only final point I would want to make, and then I will entertain any questions and I would be glad to show you any of these car seats, is the whole question of speed on the highways. As you know, Mr. Bryan, in recent years we have seen increased speeds on the interstates in about 40 of our states, increasing speed limits from 55 miles an hour to 65 miles an hour.

We are very concerned about the risks to children with these increased speeds. We know, for example, that the drivers involved in a 50 mile an hour crash are about twice as likely to die as drivers in a 40 mile an hour crash, and the same is true for occupants. The faster the speed at the time of the crash, the more the energy, the less likely the child's body is going to be able to tolerate that crash.

The Academy has been on record for many, many years supporting a uniform 55 mile an hour speed limit, and we would urge you to reinstate such a limit.

I would be glad to answer any questions you might have.

[The statement follows:]

STATEMENT OF DR. MARK WIDOME, ON BEHALF OF THE AMERICAN ACADEMY OF PEDIATRICS

Good morning, Mr. Chairman, my name is Dr. Mark Widome. I am in the practice of general academic pediatrics, and I am an associate professor of pediatrics at the Pennsylvania State University College of Medicine at Hershey. I currently serve as the chairman of the Committee on Injury and Poison Prevention of the American Academy of Pediatrics, and I am here today on behalf of my 37,000 colleagues in the Academy, who are dedicated to the promotion of infant, child, and adolescent health.

The Academy wishes to express its appreciation to you, Mr. Chairman, and to the subcommittee for focusing sharper attention on the peril which our children continue to face today on the nation's highways. More specifically, we are here to testify for these reasons:

1. We want to be sure that the November 1989 report of the Center for Auto Safety will not be misinterpreted, thereby jeopardizing a decade of achievement in the field of vehicle-occupant protection. We are particularly concerned that families might begin to question the wisdom of securing their young children in <u>currently available</u> infant and child car seats. This would result in decreased levels of protection on the

highway. We wish to assure that attention not be diverted away from current efforts to increase rates of correct usage.

2. We wish to highlight for this panel several additional priority issues in vehicle-occupant protection for children: greater compatibility of seats with seat belts; greater availability of upper-torso restraints for rear-seat passengers; and the development of standards for protection of children with special needs and of very small infants.

3. Finally, we welcome this opportunity to present a series of additional recommendations intended to decrease pediatric morbidity and mortality on our nation's highways.

Occupant injuries and fatalities are perhaps America's most important public health problem. They are certainly this country's most important cause of preventable death and disability. In 1988 more than 39,000 Americans died as vehicle occupants on our highways. Crashes resulted in 1.8 million disabling injuries, and the direct and indirect costs are estimated to total more than $70 billion.

Although the risk of injury and death per mile traveled has been gradually declining over the past 20 years -- a reflection of better designed roadways, better designed

vehicles, greater use of seat belts, and improvement in emergency medical services -- the numbers of persons killed each year has remained essentially unchanged, reflecting the dramatic increases in total passenger-miles. The great tragedy is that crash injuries are preventable. There is a vast potential to save most of those lives lost, to avoid most of those injuries, and to reclaim billions of dollars in medical costs, property damage and lost wages, which could be plowed back into the economy.

Today we wish to focus on the issue of children who are injured or killed while riding in motor vehicles. Of the more than 1300 children ages 12 and under who die each year as vehicle occupants, I would like to turn our attention primarily to the nearly 700 preschoolers who are killed each year, as well as the tens of thousands who are injured. It is an extremely important group upon whom to focus, for it is the youngest children who have the highest death rates on our highways. Indeed, the children with the highest vehicle-occupant death rates are infants less than one year old. This is the population that we have perhaps the greatest opportunity to help, to save their lives and to prevent their disabling injuries.

As background, the Academy wishes to remind this panel that there are two fundamental strategies for reducing injury to vehicle occupants: preventing automobile crashes, and preventing injury given the occurrence of a crash. Lives

will be needlessly lost if we do not insist upon addressing both of these issues in concert, rather than dealing with either one at the expense of the other. There are strategies of proven effectiveness for addressing both of these aspects of prevention.

Furthermore, effective efforts to reduce human damage (injury) in automobile crashes must be based on an understanding of what happens in a crash. A crash consists of at least two discrete events. The first event is the crash of the motor vehicle into a stationary object or another vehicle. This first crash results only in property damage. The second crash (occurring a fraction of a second later) is the crash of the child or adult into the interior structures of the vehicle, e.g., the dashboard, windshield or steering column. It is this second crash that results in injury or loss of life.

Seat belts, car seats, interior padding and air cushions are the equipment and elements of vehicle design that can serve to reduce the damage of the "second crash." Seat belts and car seats, specifically, help the vehicle occupant "ride down" the second crash. They provide a "stopping distance" and a distribution of the crash forces such that the forces are tolerable, even by the body an an infant or a small child. Whether you are an adult, a teenager, a child or an infant, the principle is the same: you can usually survive a crash and often escape injury if you are securely attached to

your car, and if the forces of the crash are distributed widely over the stronger parts of your body. For adults and older children, those forces are best distributed by a lap and shoulder belt over the pelvic bones and the chest. For children in forward-facing car seats, the forces are similarly distributed, but by a device suited to the child's size. For an infant under 20 pounds, those forces are best handled by a rear-facing car seat which distributes the crash forces over the long axis of the infant's body, over the infant's back. In any case, the margin for error in a high-speed crash is not great. For protection to occur, the child must be properly restrained in a device that is designed for a person of his or her size, weight and build. Proper placement of the restraint device, and good fit, are necessary for optimal protection.

In the past decade, we have witnessed great progress in providing child occupants with greater measures of crash protection. We have seen improved designs in car seats, providing both better protection and improved convenience. An amended Federal Motor Vehicle Safety Standard 213 went into effect in January, 1981. It required crash-testing of child-seating systems at 30 miles per hour.

The Academy began its "First Ride, Safe Ride" program in 1980, with two stated goals: to ensure that every newborn leave the hospital in a federally approved child seat, and to work toward passage of state legislation requiring the use of

child safety seats. In 1980, only one state (Tennessee) required that infants ride in car seats. By mid-decade, all 50 states and the District of Columbia had passed child passenger protection laws. The National Highway Traffic Safety Administration's "19-city" surveys of restraint use at the beginning of the decade put observed usage rates of car seats at somewhere under 25 percent. Today those surveys reveal usage of 84 percent.

The Need to Increase Correct Car Seat Usage

While NHTSA estimates that 213 lives were saved by child safety seats in 1987, it reports also that 462 lives could have been saved had all young children been restrained in safety seats. Furthermore, surveys in recent years have shown that between one-third and two-thirds of child safety seats are being used incorrectly. They are being buckled incorrectly or they are used facing the wrong way, thus reducing or totally eliminating their life-saving capability.

The recent, highly publicized Center for Auto Safety study reports that of the 27 million child restraint systems sold over the past eight years, more than half are in use despite being recalled or failing tests for compliance with applicable federal safety standards. As pediatricians, we are in no position to pass judgment on the technical details of test results of individual models of car seats. Likewise, we are not here to offer a judgment on the merit of the

allegations of the Center for Auto Safety. We are here, however, to report that many children owe their lives and freedom from disabling injury to the use of car safety seats -- be they perfect or imperfect. We are also here to report that great effort has been expended, by pediatricians and others, to educate young parents in the use of these seats and on the importance of using safety seats on every automobile ride. We fear that these hard-won gains, measured in lives saved and hospitalizations avoided, could be quickly undone were the public to become confused about whether child safety seats are safe or unsafe.

Several facts are clear. The first is that in the real world, with the seats we currently have, lives are saved and injuries prevented every day of the year. Even if some seats may be imperfect, as they most certainly are, and even with disturbingly high rates of incorrect use, NHTSA estimated that between 1982 and 1987 infant safety seats were 69 percent effective in reducing fatalities, and toddler seats were 47 percent effective in reducing fatalities. Studies from individual states confirm these trends. A 1986 study from Michigan, for example, showed that as car seat usage in that state increased from 12 to 51 percent, there was an associated 25 percent reduction in child vehicle-occupant injuries. A study that same year from New Mexico showed that unrestrained preschoolers were five times as likely to be killed and twice as likely to be injured as were children who were restrained at the time of a car crash.

Car seats may not in all cases be perfect, but the real world has shown us that they are quite good. That car seats, when used, save only two lives out of three, something less than their potential, is very unfortunate. But whatever we do, let's not stop using them. The difference in their real-world performance and theoretical performance is not due to any one factor. One of the most important factors is certainly the high propensity for seats to be used incorrectly. Defective product may be another factor. We should be satisfied neither with misuse nor product defect. We should be especially dissatisfied that there are still tens of thousands of children who get into the care each day and use no restraint system at all. However, if we concentrate on product defect, at the expense of increasing usage -- and particularly increasing correct usage -- then we will be ignoring our own experience. As disturbing as it is that a safety product may be dangerously defective, an association between design defects and resultant injury has yet to be quantified. There would appear to be little argument, however, that correct use of any of the currently available car seats is far preferable to either non-use of car seats, or improper use of even a "perfect" car seat.

The Academy would, of course, hope that the National Highway Traffic Safety Administration vigorously enforce compliance with FMVSS 213. Yet this must be achieved without diverting resources away from increasing usage rates of currently

available car seats and taking steps to help assure that correct usage rates are dramatically increased. To restate our position: it is the Academy view that the major problem in car seats not fulfilling their full potential to save lives is that they are too often used incorrectly, and in too many families they are not used at all. It is important to note in this regard that although the NHTSA "19-city" surveys show that four out of five children are restrained, these surveys apparently miss many high-risk families. Only one in four children who survive crashes involving fatalities are restrained in child safety seats. What this suggests is that usage rates are exceptionally low -- unacceptably low -- among those children and families likeliest to be involved in serious crashes.

Additional Priority Issues in Child Passenger Safety

The Academy wishes to call your attention to three important issues regarding child vehicle-occupant safety:

1. Incompatility of seat belts and car seats. All safety seats do not fit in all passenger-seating positions of automobiles. Parents are confronted by a confusing circus of seat belt configurations and designs, only some of which can accommodate a car seat. The combinations and permutations of seat belts in cars makes it so confusing that correct use can be the exception rather than the rule. For example, car seats

are generally incompatible with "automatic" seat belts. Likewise they are difficult, if not impossible, to use at seating positions equipped with lap belts which have emergency locking retractors ("inertia reels" or "ELRS"). In seating positions equipped with lap/shoulder belt combination ELRs, parents must install a special locking clip in order to secure a car seat -- unless that position has a sewn-on latch plate, in which case a car seat cannot be used at all.

The issue of compatibility of seating positions to car seats must be definitively addressed. The greater the compatibility of seating positions with car seats, the greater the likelihood that seats will be used, and used correctly. Parents should not have to be automobile engineers to figure out whether a particular car seat can be used in particular seating position.

2. Lack of upper-torso restraint for many older children. Children who have outgrown a full car seat, and who are "graduating" to a booster seat or to seat belts, are often denied maximal protection because they do not have available to them a seating position with a shoulder strap to provide upper-torso protection. NHTSA staff analysis suggests that the addition of a shoulder harness can increase rear-seat belt effectiveness from 26 to 33 percent for fatalities and from 33 percent to 50 percent for moderate to severe injuries. While rear

outboard positions in all new 1990 automobiles have three-point harnesses, most older cars are not so equipped. A "small-shield" booster seat designed to be use with lap belt alone, provides inferior protection to a comfortable "belt-positioning" booster seat (for children ages four to seven) designed to be used with the automobile's shoulder strap. Likewise, an older child or adult receives inferior protection from a lap belt alone, when compared to the protection possible with a three-point system.

In young and old alike, shoulder straps prevent the head from traveling forward upon crash impact, and it prevents flexion and traction of the spine. Thus, shoulder straps help protect the central nervous system -- the brain and the spinal cord. After all, that is the fundamental objective of all passenger protection systems, and is the measure by which they should all be judged.

Although most older cars have anchorage points for retrofitting shoulder straps in the rear seat, parents have found it nearly impossible to find a car dealer willing to install the belts. We believe that the federal government should act to make rear-seat shoulder straps more readily available to owners of cars not so equipped at the time of purchase. Children, who more often ride in the back seat, should be given the same

upper-torso protection that their parents enjoy in the front seat.

3. Addressing the occupant protection needs of small babies, and of children with disabilities. The success of modern neonatal intensive care has resulted in many infants leaving the hospital weighing less than five pounds. Most care seats are designed for infants weighing seven to 20 pounds; they do not accommodate these small babies well. Neither do federal motor vehicle safety standards address the needs of these very small -- but increasingly common -- travellers. For example, the test dummies used to test infant car seats weigh 17 pounds (8 kilograms). Furthermore, recent evidence suggests that some premature children should travel fully reclined because they are at risk of respiratory compromise in upright car seats.

In addition to premature infants, there is a large group of children with a variety of orthopedic, neurological and developmental problems which necessitates that they travel in a horizontal position. Although the Academy is currently developing guidelines for the safe transportation of this group, there will be an eventual need for federal standards for transportation of child passengers who cannot sit up.

Additional Recommendations

The Academy submits the following recommendations to the committee and to the National Highway Traffic Safety Administration:

1. Center for Auto Safety Report. As I stated earlier, the AAP is not in a position to assess the merits of the CAS allegations. Whatever their value, all parties concerned owe it to parents and children to speak publicly (and it is hoped with one voice) to the value of consistently and correctly using currently owned car seats. Furthermore, all the issues in the report must be resolved promptly and professionally, in order to restore parents' faith in the efficacy of car seats and in the integrity of the regulatory process.

2. Recalls. The CAS report pointed out the disappointing low rate with which recalled, defective car seats are retrieved from circulation. With new and innovative car seat designs being constantly introduced, we anticipate that problems and defects will not infrequently come to light after a car seat is taken to market. Therefore, a standard system of owner registration card should be employed. Consumers will probably need some small incentive to mail in their registration cards. If high voluntary registration rates can be achieved, then recall notices can be sent directly to owners -- a

system likelier to be effective than would be the posting of public notices in magazines, newspapers or pediatricians' offices.

3. Speed: Recalling that the reduction of highway injuries demands the combined application of multiple strategies, we remind this panel that we are seeing increasing speeds of some of our highways. One of the provisions of the 1987 Surface Transportation and Uniform Relocation Assistance Act was to allow states to raise the speed limit on most interstate highways to 65 miles per hour. As of December, 1989, some 40 states have increased their speed limits. Consequently, fatality rates on those highways are significantly higher, perhaps 21 percent higher. The relationship of speed to fatality rates is well-known. For example, a driver involved in a 50 mile per hour crash is twice as likely to die as a driver involved in a 40 mile per hour crash. The AAP has long supported a national maximum speed limit of 55 mph. We call on you to help reinstate a uniform maximum speed limit of 55 mph.

Mr. Chairman, we have tried to touch on some of the major issues in child passenger protection, with emphasis on the infant and younger child. We look forward to extending greater levels of protection to school-age children as well. The feasibility of seat belts with adjustable anchor points suitable for children of differing heights should be

investigated. State child passenger protection laws should be extended to include older children as well, and a variety of loopholes in those laws should be closed. There is no medical or technical reason why we have to lose an average three or four children ages 12 and under every day of the year to highway fatality. We can build better protection into our automobiles, and better teach the public to use available restraint systems. The Academy will continue to commit its support both to the Congress and to the Department of Transportation, as we work more diligently together to safeguard our children.

Thank you very much.

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Senator BRYAN. Doctor, I will not ask you any questions right now until we have completed the panel. But you have got the child restraint seats there. Why do you not demonstrate those for us.

Your comment almost suggests that Senator McCain's suggestion of standardization ought to be considered. Why do you not show us.

Dr. WIDOME. Okay. What we have here is three of the most popular styles of seats. This is an infant car seat. This can be used for a child from the time of birth up until the time he weighs 18 to 20 pounds, around nine to twelve months of age.

This seat must be used in a rear-facing fashion, so that the forces in a crash are distributed along the long axis of the baby's body, along the baby's back. The child is placed in the car seat, the straps are placed over the child's shoulders. There is a clip here to secure it around the child's chest, and there is a clip that clips between the child's legs. There is a nice loud click so that you know the seat is secure.

Senator BRYAN. The so-called "crotch strap."

Dr. WIDOME. That is the crotch strap that prevents the child from sliding out of the seat.

The seat is placed in the car facing the back and it is secured by the car's own seatbelt. The principle is the same in all of these car seats. The child must be secured to the car seat and the car seat must be secured to the automobile by the automobile's own seatbelts.

If you want to prevent damage to people in a crash, you have to ride down that "second crash" by attaching the child firmly to the car by the car seat and the car's own seatbelt.

So this is for infants. It is rear-facing. Children grow out of this when they weigh about 20 pounds.

The next model is a very popular style of car seat. Let me take this one off and put it on the floor here. This is a convertible car seat. This can be used in the rear-facing position for newborns and up through about 20 pounds of weight. And when you use it in the rear-facing position as if it were an infant car seat, you take this and flip it down, so the angle is different.

The child is placed in the car seat and these are rethreaded through the lower slots, and then this T-brace here is simply firmly clicked in there.

When your child gets too old to ride in the rear-facing position, you simply rethread these from the lower slots to the upper slots, because your child is taller, flip this around like this so it is at the correct angle, and put it in the car facing forward, and you thread the car's seatbelt through this here.

This car seat can be used up until a child is about four years old, 40 pounds or 40 inches tall. After that, a child graduates to a booster seat. But these car seats, these full car seats, provide the very best protection, and my recommendation to parents is that they use car seats such as this until their child literally does not fit in it any more.

Senator BRYAN. Doctor, what is the cost approximately of that type of seat? What is the range?

Dr. WIDOME. Car seats that meet standard 213 vary in cost from $40 to $100. There is a great difference in cost on where you buy

them. The differences are mainly in convenience features and a number of details, but not in crash performance.

Senator BRYAN. So that type of seat, the styling of that seat, is about $40 to $100, would you say?

Dr. WIDOME. I am not sure of the exact price of this seat, but yes. A $60 seat would be a typical retail price for a seat.

Now, finally, I just want to show you an example of one of the newer seats on the market, and this is a booster seat. The manufacturer's recommendations state that booster seats such as this can be used for children who are three years old up until about six or seven years old.

We recommend not using these seats until you outgrow the full car seat. But what these seats do is they help position the seatbelt and hold you in the seat when you are too large to use the full car seat.

I will show you how this works. What you do is you put this in the car, and this is the front of the car and this is the back of the car. You lift up the pad here, you put the car's lap belt through here and buckle it, and you close this and put the child in the car seat.

Then this locks down with a nice click, and the child is protected by this shield here.

This is the best kind of seat to use if you only have lap belts in the back seat of the car. If the back seat of your car is equipped with both lap belts and shoulder straps, there is a similar kind of booster seat that we recommend in preference to this, and that is one that helps position the lap and shoulder belts for the size of a four or five year old child, and that way they get better upper torso protection than this kind of seat can give them.

This is probably about the best upper torso protection you can get if you have nothing but a lap belt to work with.

So there is a lot of variation, a lot of different designs. There is a variety of different kinds of seat belts out there that will not accommodate any car seat. Automatic belts do not accommodate car seats. The kind that have the automatic retractors that only lock in a crash will sometimes work with a locking clip, but if you have a three-point harness like that with a sewn-on clip there is no way you can use it with a car seat, there is virtually no way you can use it with a car seat.

So parents have a lot of confusion out there, and that question about standardization I think was a very good one.

Senator BRYAN. Doctor, we thank you very much.

Let us shift to the other end of the table, the man that is on the firing line and probably sees the consequences of those who use seats and those who do not, and those who use them but do not use them properly and those that do. Captain, we are delighted to have you here today.

STATEMENT OF CAPT. RAYMOND D. COTTON, NORTHERN TROOP COMMANDER, MARYLAND STATE POLICE

Captain COTTON. Mr. Chairman, it is a pleasure for me to be here and to represent the State of Maryland.

I have been a law enforcement officer now for 22 years and I expect to be in it for a few more years.

During my law enforcement experience I have been on the scene of many crashes involving small children, which is the issue today.

In some of those crashes I have seen the maiming and the death that can occur, and I have also seen the life-saving benefits of child safety seats.

There is no question that when you arrive on the scene of a crash and observe mangled bodies and oftentimes the only survivor is the child who has been lucky enough to have been properly placed in a child safety seat, one realizes the true benefits of these devices. This happens every day on our Nation's highways.

I speak from a biased standpoint but I believe the Maryland State Police has been a leader in the child passenger safety area. We have assisted the National Highway Traffic Safety Administration in developing training programs on a national level for law enforcement officers.

The goals of those training programs, among many, are to provide the law enforcement community a better understanding, of why we need to enforce these laws.

You must remember in 1978, when the good Senator Al Gore's State, Tennessee, implemented the first child safety seat law, this took the law enforcement community by storm. It was something new.

We now have to know exactly what the good doctor down here has told you in five minutes. We, all law enforcement officers, have to know everything that he has told the committee here today in order for us to properly enforce the law.

That takes training. Training takes time, resources, and money. Certainly one of the child passenger safety concerns is that it is a local issue, and from a State perspective it is a community issue and local law enforcement recognizes that. Most of your small children are carried in the local communities, to and from day care centers, shopping centers, and so forth, and not necessarily on the interstate systems.

My experience includes serving as a member of the Executive Board of the no longer existing National Child Passenger Safety Association. I was the Chairman of the Law Enforcement Committee. And I am also the Past President of the Maryland Child Passenger Safety Association. I have trained thousands of law enforcement officers across this country in just what was told to the committee on the proper use of seats and how to enforce child passenger and occupant protection laws.

In my travels, many of the same issues crop up both from state and local law enforcement communities. When the laws took effect in their states, for whatever reason, some law enforcement officials were not on the developmental side of that legislation and consequently the law that they got to enforce they felt was complex in some cases, and they felt that they were unenforceable.

So a whole philosophy change had to develop, and that is the importance of the continued training which is being done across the country, spearheaded by NHTSA.

Another issue is the laws. All 50 states and the District of Columbia, have laws. But they are not uniform. For instance, in the

State of Maryland the driver of the automobile is the person responsible for buckling in the child. In other states, it may be the registered owner, it may be the parent or guardian.

This nonuniformity or lack of standardization creates a sort of dilemma for law enforcement as motorists pass through our respective states. So we find ourselves enforcing the Maryland child passenger safety law, but not those of the other states. In our crash statistics, we see that in some cases not only is it Maryland children dying in crashes from misuse or nonuse, but it is also out of state children. This is a concern from the law enforcement level.

The expansion of age groups to include those from say age five to 16, or nine, ten—some states have already expanded their laws, which creates a better safety zone for children being transported in automobiles. So we need to continue in that direction.

The uniformity of codes would standardize the enforcement. And certainly funding, the continued funding and additional funding from the Federal level for law enforcement, for training, public education and information programs, and materials, and for enforcement of these laws would be extremely beneficial to law enforcement.

I know that NHTSA has—I think it was alluded to this morning—recently conducted some demonstration projects on child passenger safety enforcement in several police agencies. I cannot comment on the results of these, but I know it did occur, and I think that needs to continue. I think that those type of projects need to continue in the child passenger safety area and in the whole realm of occupant protection.

When you opened the subcommittee meeting this morning, Mr. Chairman, you said there is two things that all of us can do. We can use the seats, the child restraint devices, and we can use them properly.

As a law enforcement professional, and as a father, I know law enforcement officers can do one additional thing. We can do something when we see these violations. We can enforce them. That is something everybody in this room cannot do. So we can do three things, and I would like to for the record call upon all law enforcement to make a concerted effort in the enforcement area.

I guess with that I will close and thank you for the opportunity to be here.

[The statement follows:]

STATEMENT OF CAPT. RAYMOND D. COTTON, MARYLAND STATE POLICE

Mr. Chairman and members of the committee, my name is Captain Raymond D. Cotton, of the Maryland State Police. On behalf of the Honorable William Donald Schaefer, Governor of the Great State of Maryland, Bishop L. Robinson, Secretary of Public Safety and Correctional Services, and Colonel Elmer H. Tippett, Superintendent of the Maryland State Police, I would like to thank you for the opportunity to testify before you, regarding such an important highway safety issue: child passenger protection.

I have been a member of the Maryland State Police for 22 years. During those 22 years, I have been directly involved in the planning, development, and implementation of various child passenger safety programs. I have been involved with numerous traffic safety programs and associations. I have served on the Executive Board of the National Passenger Safety Association, as Chairman of the Law Enforcement Committee, and am past President of the Maryland Child Passenger Safety Association. Further, I have served on various National and State Highway Safety Committees, including the Transportation Research Board's Committee on Traveler's Services.

In 1978, the State of Tennessee became the first state to enact a child restraint law. Since then, all 50 states and the District of Columbia, have enacted child restraint laws. The Maryland State Police, working cooperatively with the Maryland Chiefs of Police Association and the allied law enforcement community, have developed an acute public awareness about our enforcement of Maryland's child passenger safety laws. These model aggressive enforcement efforts have served as an example for other states to follow as we continue to improve child safety on our highways. In addition to strict enforcement, our efforts have placed great responsibility on the motoring public to voluntarily comply with child restraint laws. This emphasis has resulted in a higher level of compliance and public support of our child restraint laws, which, in my opinion, has greatly enhanced safety on our highways for children.

In most states, enforcement of child passenger safety laws has steadily increased. The level of voluntary compliance by the motoring public has also increased. This information in no way indicates that law enforcement's job is complete.

The State of Maryland has been active in child passenger safety for many years. In 1980, the Maryland State Police, along with various health organizations in both the public and private sector began to research the feasibility of implementing a child restraint law in the State of Maryland. After several years of evaluating crash and injury data, a child occupant protection law was signed in Maryland, in May of 1983.

Prior to the law taking effect in January of 1984, the Maryland State Police launched a massive public information and education campaign which focused attention on the fact that motor vehicle crashes are among the leading cause of injury death among children in the United States. The publicity generated by this public educational effort convinced the motoring public that a child which is unrestrained is like a missile waiting to be launched.

Working with the Maryland Child Passenger Safety Association, the National Highway Traffic Safety Administration, Maryland's Department of Transportation, and a whole host of safety organizations, the Maryland State Police "marketed" a unified message to the community that proper use of child restraints saves lives. Additionally, federal, state, and local law enforcement agencies coordinated enforcement activities which placed the public on notice that enforcement of the child restraint laws would be aggressive and strict.

A great deal of momentum is underway in the area of child passenger safety, and although we have made significant progress in the number of child restraints being used in the United States, we must now focus on how those restraints are being used. Here in Maryland, for example, the Maryland Child Passenger Safety Association estimates that approximately 70% of all children being transported by motor vehicles are improperly restrained.

Citizens must be made aware of the dangers that face children while traveling in motor vehicles. They must also be trained in the proper installation and usage of child safety seats, booster seats, and seat belts. We must train the public to properly install these devices and to secure their children correctly in the equipment. Additionally, law enforcement officers must receive this same training, not only to take correct enforcement action, but to have the child properly restrained before allowing the motorist to proceed.

Probably our biggest challenge during the next decade is to maintain a high level of compliance with child restraint laws around the country. An important element of this challenge is our ability to inform and educate the motoring public about the proper use of these restraints. Certainly, another consideration is the strengthening of the nation's child passenger safety laws to include an expansion of the age groups and perhaps some consideration could be given to establish a uniform code for child passenger safety which would serve to simplify enforcement. Furthermore, funding for local law enforcement initiatives pertaining to child passenger safety should receive your immediate attention.

The public information and education efforts on child passenger safety are vital to so many other highway safety issues, including, of course, the adult occupant restraint laws. Often times, children are our best advocates of highway safety, and will teach others to buckle up. We must set the example for one another. The "marketing" of the public information and educational programs such as Vince and Larry, Buckle Bear, Belt-Man and so many others has reflected the concerted efforts at the federal, state, and local levels. In order to help keep our children alive, we must keep these programs alive, particularly at the local law enforcement level.

Ladies and gentlemen, in closing, I would direct your attention to the study conducted nationally by the Maryland State Police entitled "A Decade of Child Passenger Safety Law Enforcement - 1978 Through 1989," which documents a clear correlation between enforcement and compliance. After reviewing the study, I am confident you will agree that aggressive enforcement combined with effective public educational efforts translates into higher levels of compliance, and ultimately, safety for everyone.

As a law enforcement officer, as a caring parent, as a concerned citizen, I would like to express my sincere appreciation for the opportunity to address this committee. I trust you will give every consideration to our children, our youth, our future.

Thank you.

Senator BRYAN. Captain, we thank you very much for your testimony.

Mr. O'Neill, we will hear from you next, sir.

STATEMENT OF BRIAN O'NEILL, PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

Mr. O'NEILL. Thank you, Mr. Chairman.

In the interest of time, I would request that my formal statement be put into the record and I will briefly summarize it.

Senator BRYAN. Your statement will be included. We thank you.

Mr. O'NEILL. As we have already heard, recent years have seen important progress in protecting children in crashes. We have child restraint laws in all 50 states and about 80 percent of infants and toddlers are now riding in child safety seats.

But as we have already heard, we also have problems. We still have too many children that are unrestrained. And as we have heard over and over again today, about one in three of the seats that are being used are being used incorrectly. This means that only about 50 to 60 percent of the children in traffic are properly restrained.

I would like to very much second what Dr. Widome said: The parents that choose not to put their children in restraints are the ones that are more likely to be involved in crashes. This means that fewer of the people who are involved, or fewer children who are involved, in car crashes will be protected. Unfortunately it always seems to work this way.

So we still have a long way to go. Clearly, we need more work to increase child restraint use. So far we are doing better for infants

and toddlers. As we have heard, there is about 80 percent use, a third of that is unfortunately incorrect, but that is a relatively high number.

We are doing a much poorer job when it comes to five to twelve year olds. Current use for this age group is about 39 percent. So there is a big falloff in usage when children outgrow child restraints, and we have got to do more for these children.

Clearly, we need to publicize and enforce the laws that are on the books. Unfortunately, I think we have situations now where there has been so little publicity about some of these laws in recent years that many parents or adults are not even aware that the laws exist.

We must do everything we can to increase child restraint use, and at the same time we must avoid doing things that might decrease child restraint use. A lot of things have been discussed this morning. One thing that has not been discussed much is the cost of these devices.

Even though it is against the law to not protect your child in a car in all states, a child restraint is a discretionary purchase. And if we make the requirements on the manufacturers of the devices more and more burdensome, the costs will go up.

I suggest that, if the costs go too high, we will see more and more low income parents choosing not to purchase these restraints, and that is already the group that is the lowest users of these devices. So we have got to have some balance here.

What is the appropriate thing to be done if a child restraint is not available? Well, there is no question that children who can sit up unassisted should use an adult belt if there is no child restraint available. Ideally, that should be a lap/shoulder belt. But if the lap belt is the only option, it should be used.

In the case of children especially, but it is also true for adults, proper fit is very important when you are wearing lap belts. It must be placed very low over the hips and not across the abdomen. That is sometimes a problem in some cars, especially for young children.

What I would like to do is show a videotape about two and a half minutes long of crash tests illustrating some of these points. Many of these crash tests date back to the mid-1970's and were very influential in persuading state legislators to adopt laws requiring child protection.

If we could run the video now.

Senator BRYAN. Proceed, Mr. O'Neill.

[Videotape shown:]

Mr. O'NEILL. First we will see a situation that is still all too common, unrestrained children in the rear seat of a station wagon.

These are crash tests run by the Institute over the years. These first tests, as I said, date back to the mid-1970's. Here you can see children unrestrained in the rear seats of station wagons and the consequences that can occur in the event of a rear-end collision.

Senator BRYAN. Pretty dramatic footage, is it not.

Mr. O'NEILL. And even today you will see children transported like this in station wagons to and from events, functions, soccer games, et cetera.

Senator BRYAN. That was a 30 mile per hour crash test, was it?

Mr. O'NEILL. That was a 30 mile per hour rear-end impact.

Now we will see a child unrestrained in the front seat, in a 24 miles per hour crash.

Clearly, children should never be unrestrained in any circumstance in a car.

Next we will see another 25 miles per hour crash test. This is a rear lap-belted case. The child is wearing a lap belt. There is some restraint. But as you can see, and as Dr. Widome pointed out, there is virtually no restraint for the upper torso. But the child is held in place and that belt will offer some protection.

Senator BRYAN. Mr. O'Neill, you have clearly recommended the use of a lap belt as opposed to the non-use of a lap belt.

Mr. O'NEILL. No question.

Here is an even better situation, a child in an adult three-point belt, and you can see there is much better protection and restraint provided by the addition of the upper torso belt.

Now we will see a child restraint properly used—a child restraint that meets the requirements of the current Federal standard. And you can see how effective that device is when it is properly used in restraining and protecting the child; there is a 70 percent chance of reducing death and serious injury when it is used in this mode. It makes it much more effective than adult child restraints, a very effective device when used correctly.

But here is an example of improper use that is still common. The child is put in the seat but not belted in. Again, the test is at 25 miles per hour. This is an example of the misuse that is still occurring out there on our highways.

We see this presumably because mothers cannot be bothered, or guardians cannot be bothered, to buckle the child in. They throw them in the seat, off they go, and if they have a crash. This is the result.

Clearly, much has been accomplished, but much more needs to be done. But let us not lose sight of the principal problems. They are non-use and misuse. The Center for Auto Safety report does raise some legitimate concerns, but they are second level concerns compared to the major issues of non-use and misuse.

I think it is very unfortunate that the Center for Auto Safety study has statements which can be alarmist if taken out of context. And I quote—this is the unfortunate kind of statement that has offended so many people in the safety community:

"Nearly one out of every three child seats in use is defective. Every day millions of American parents put their children at risk by placing them in defective seats."

That is simply not true. It is an unfair characterization of the situation. The issues are—the serious issues—are non-use and misuse, and we must not lose sight of that. Yes, we should pay attention to the recall question and improve the process.

But we should not unnecessarily alarm the American public about the effectiveness of child restraints. They are very effective. Even ones that fail many of the compliance tests are very effective when they are used correctly. They do provide very good protection. And we should never let children ride unrestrained in cars.

Thank you, sir.

[The statement follows:]

STATEMENT OF BRIAN O'NEILL, PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

The Insurance Institute for Highway Safety is a nonprofit research and communications organization, supported by the nation's property and casualty insurers, that identifies and develops ways to reduce motor vehicle crash losses. I'm the Institute's President and, at this subcommittee's request, I'm here to discuss issues relating to child protection in motor vehicles.

The first thing to recognize about this subject is that some remarkable progress has been made. We have child restraint laws in effect in all 50 states. More than 80 percent of all infants and toddlers under four years old are riding in specially designed child safety seats, according to the latest government surveys. This is a far higher percentage than prevailed before child restraint laws were enacted.

And the restraints our children are riding in are, by and large, very effective. Research has proven this time and again, with the latest study showing that child restraints, when used correctly, reduce the likelihood of death by about 70 percent. They're thus considerably more effective than adult safety belts.

This doesn't mean child safety problems have been solved. Far from it. Too many infants and toddlers -- and especially older children -- still aren't restrained in motor vehicles. The infant carriers and toddler seats children are riding in too often aren't being used properly. These are the two principal issues -- nonuse of restraints, especially among older children, and misuse of restraints, especially infant and toddler seats -- that should be getting most of our attention.

Misuse of Infant Carriers and Toddler Seats

Even when they are riding in infant or child restraints, children may be at risk because the restraints aren't being used properly. One in three of the child seats surveyed by federal researchers was found to be used incorrectly, the most common problems being tethers not connected on seats requiring this kind of anchor and restraints not correctly secured by adult safety belts.

The U.S. Department of Transportation has eliminated one of these major sources of incorrect use -- not using a supplemental tether strap -- by requiring newer child seats to pass 30 mph crash tests without the tether. This change makes the seats easier to use, and more are being used correctly. Additional efforts are needed, though, to eliminate other reasons for incorrect child restraint use. For example, to correctly secure some restraints an adult must thread a

vehicle's safety belt through the tubular frame of the child seat. There may be several places through which the belt could be threaded and, consequently, many such seats are incorrectly used.

Crash tests prove how important it is to use child restraints and how deadly misuse can be. These Insurance Institute for Highway Safety tests begin with what happens to unrestrained children in a crash ... then what happens to children who're securely fastened in adult safety belts ... then a child restraint, correctly used ... and, finally, how misuse of a child restraint can defeat its purpose entirely, allowing a child to be severely injured in a crash.

What we need are child safety seats that are as easy as possible to use -- and use correctly. We need clearer instructions about how to use these seats plus vehicle belt systems that will correctly -- not to mention easily -- secure child restraints.

Nonuse of Child Restraints

All infants and toddlers should be correctly buckled into special child seats. And the safety belt use rate for 5-12 year olds -- those who've outgrown toddler seats -- should be far higher than the current 39 percent. What would work to increase these rates? The same thing that works to increase belt use among adults -- enacting, publicizing, and enforcing strong safety belt use laws. When such laws are vigorously publicized and police give out even modest numbers of tickets for failing to buckle up, use rates are high.

More often, though, neither child restraint nor adult safety belt laws are publicized or enforced to the degree they should be. Significant segments of our society don't even know these laws exist. So what we need is more publicity and enforcement of such laws to make them work. And child restraints ought to be available to all parents, regardless of income.

Rear Seat Lap/Shoulder Belts

One reason some children aren't restrained in motor vehicles is that a special child seat isn't available. But this is no excuse. Every child who can sit up unassisted should ride in an adult safety belt, ideally a lap/shoulder belt, if a special child restraint isn't available.

This brings me to the whole subject of rear seat lap/shoulder belts -- why they're not in cars, why we don't know how good the ones in some cars are, and what needs to be done in this area. It's been known and widely accepted since 1968 that lap/shoulder belts are better than

lap belts alone, but the U.S. Department of Transportation did nothing for years to require or even promote the superior belts in rear seating positions. In fact, a petition to require lap/shoulder belts in rear seats was rejected as late as 1984. It wasn't until last year that such a requirement finally was issued. It should have been issued years ago. If it had been, many more people could have been protected in crashes. And many of the issues we're facing today would have been preempted.

As it is, we have a federal requirement for rear seat lap/shoulder belts -- but not for dynamically testing them. This isn't good enough. All seat belts should be dynamically tested because they don't exist in a vacuum. Safety belt systems really are systems in the truest sense of the word. Ideally, the belts work together with vehicle seats and structure to provide effective occupant protection. If a lap/shoulder belt is simply installed in a car but the seat is too soft, for example, the belt system won't necessarily be an improvement over a lap belt alone. This is especially true for children, compared to adults, because they're smaller and it's therefore harder to position belts across them correctly in the first place. (The belt should be positioned low, below the top of the pelvis.) It's also easier for a belt to ride up over a child's abdomen instead of staying over the pelvis.

The only way to ensure that belts, seats, and vehicle structure work together effectively is to conduct dynamic tests and measure forces, including abdominal loading, on test dummies. Retrofit lap/shoulder belts as well as new car belt systems should be tested this way. Automakers should be required to test dynamically and certify their belts for all seating positions and in all cars, new ones as well as older cars in which belts are being retrofitted.

When Shoulder Belts Aren't Available

Because the federal requirement for lap/shoulder belts in rear seats is new, many cars don't have them yet. In these cases, what's best for a child passenger? One answer is to retrofit the rear seat with dynamically tested lap/shoulder belts. Barring this, would a child be better off unrestrained in the rear seat instead of in an available lap belt? The answer is no. Every motor vehicle occupant, child included, is better off in a lap belt than in no belt at all.

This doesn't mean that concerns about rear lap belts are empty. They're very real. Correct positioning of lap belts low over the pelvis is often difficult and children, even if they start out wearing a lap belt correctly, can too easily find it riding up over the soft tissue of the abdomen.

Despite this problem, children should never ride unrestrained. On balance, even a lap belt offers some protection.

Proper Fit Essential

Whether the rear belt being used is a lap/shoulder system or a lap belt alone, it has to be correctly positioned about the child. The lap belt should be low enough that it sits below the top of the child's pelvis, not over the soft tissue of the abdomen. And the shoulder portion should be positioned across the child's chest.

Booster seats can help. Because they boost children up, they can make easier the positioning of the lap belt across a child's pelvis instead of the soft abdomen. Booster seats also help position the shoulder belt across a child's chest instead of the face or neck. But not all such seats are designed to be used with lap/shoulder belts. In fact, all but one on the market right now -- one that's made by Volvo -- are designed to be used with lap belts alone. The primary, or even sole, means of restraint with these boosters is provided by a shield that's held in place by the child seat. Even when a shoulder belt is available, the manufacturers of booster seats with shields often recommend positioning the belt behind a child's back. Questions have been raised about the potential for ejection and abdominal injury associated with these seats -- questions that ought to be addressed by the U.S. Department of Transportation.

Conclusion

A great deal thus remains to be done toward protecting infants and toddlers riding in child seats as well as older children using lap/shoulder belts. The emphasis should be on ways to get more children buckled up as well as programs to ensure the proper use of infant and toddler seats. It will take a lot of work to address the issues before us, but our children are worth it.

Senator BRYAN. Mr. O'Neill, we thank you.

Mr. Burgess, you are batting cleanup this afternoon.

STATEMENT OF VINCENT BURGESS, ADMINISTRATOR, TRANSPORTATION SAFETY ADMINISTRATION, VIRGINIA DEPARTMENT OF MOTOR VEHICLES, ON BEHALF OF THE NATIONAL ASSOCIATION OF GOVERNORS' HIGHWAY SAFETY REPRESENTATIVES

Mr. BURGESS. Good afternoon, Mr. Chairman.

I am with the Virginia Department of Motor Vehicles, and I am here speaking on behalf of NAGHSR, which is the National Governors' Highway Safety Reps Association. NAGHSR's membership consists of the managers of the highway safety programs for all the 50 states and territories.

We appreciate the chairman taking the time to address this most important issue today. As we all know and I think it has been mentioned periodically today, the states have taken a number of steps over the last several years to implement child safety restraint laws, in fact all the states and the District and Puerto Rico now have such laws.

More importantly, many states have strengthened those laws. I know recently that Virginia has moved to do that as well. Usage rates are up, as has been indicated. We've gone from 15 percent or so in the early 1980's to 83.5 percent today.

The main problem continues to be the misuse. As very vividly indicated in the tapes, that is where the focus has to now be placed.

The states have used the Federal highway safety program through the grant 402 apportionment to fund, loaner programs, education and information programs, training programs, and enforcement programs to try to enhance usage rates and, more importantly, to reduce misuse.

Despite these efforts, we still have a long way to go. A lot of misuse, unfortunately, surrounds the poor and rural areas of our country. Clearly, the state, the Federal, local governments and the private sector need to do more to address this area.

More training efforts should be undertaken and targeted to groups now not being trained: local day care providers, automobile dealers, health professionals. More educational efforts should be developed and targeted to places not benefiting from current educational programs: churches, public health agencies, social service agencies that service the poor.

The Federal and state governments should encourage more public and private partnerships in this area. That has been going on, but we need to do more.

They should also encourage the formation of a Federal, state and local coalition to address these issues. The Federal coalition could also serve as a national clearinghouse and could promote national public awareness on the issue.

The Federal government also needs to take steps to improve the design of child safety seats, and I think we have addressed that a couple of times today.

NHTSA should examine standard 213 and determine whether this standard is still effective. The agency should work with the

safety seat manufacturers to encourage the development of simple, clear directions on how to install these seats, not only for the parents but for law enforcement and for the people that have to promote the use of these seats.

NHTSA should examine the problems of incompatibility of the safety seats with the oncoming passive restraint systems and the automatic protection systems, and should revise standard 208, if necessary, in order to correct those problems.

NHTSA should be more aggressive in addressing the problems of the intermediate child—the child that moves out of the safety seat and then is in either the adult passive restraint system or in the booster seat. We should re-examine the safety standards for the booster seat because of the new standards that are coming in standard 208.

Finally, NHTSA should work with the manufacturers to develop and test safety seats for the medically impaired, which is a new, merging population that needs to be protected with the car seats.

Once these issues have been addressed and the Federal motor vehicle standards revised, then the Federal government should work with the states and local governments to disseminate information about the revised safety standards, to train the public health and enforcement officials about the new safety seats, and to develop aggressive enforcement and educational programs.

Thank you, Mr. Chairman.

[The statement follows:]

Statement of the National Association of
Governors' Highway Safety Representatives
before the Senate Committee on
Commerce, Science, and Transportation
Subcommittee on Consumer

I am Vincent Burgess, Administrator of the Transportation Safety Administration of the Virginia Department of Motor Vehicles. I am speaking today on behalf of the National Association of Governors' Highway Safety Representatives (NAGHSR). NAGHSR is a national, non-profit association representing managers of state highway safety programs--programs which are primarily funded from the federal State and Community Highway Safety grant program (23 U.S.C. 402), commonly referred to as the 402 program. The purpose of the organization is to improve the safety of our nation's highways and, as such, it is concerned about all aspects of highway safety. Occupant protection has been and will continue to be a priority issue for the organization.

I appreciate the opportunity to speak to you today regarding child occupant protection in motor vehicles, and I would like to commend Senator Bryan for holding these hearings.

State Occupant Protection Activities

In 1978, Tennessee became the first state to require that children in passenger cars be protected by riding in child safety seats. Today, every state, the District of Columbia, and Puerto Rico have adopted comparable legislation.

In the last several years, many states have begun to examine their child occupant protection laws and over half have taken steps to strengthen them. (A summary of child passenger protection laws is attached.) Many states have eliminated provisions which exempt specific uses, exempt certain classes of vehicles, or exempt specific applications of the law under certain circumstances (such as requirements which limit the application of the safety seat laws only to parents or which exempt out-of-state drivers). Maine, for example, last year strengthened its law by holding drivers responsible for ensuring that all front seat passengers eighteen years of age and younger are buckled up. Wyoming passed a similar law last year which would hold the driver responsible for requiring those twelve years old and under to be buckled up in the front seat of an automobile.

Measures to strengthen child occupant protection laws will be considered this year by eleven states, according to a recent survey by the Highway Users Federation. Those states are: Georgia, Idaho, Kentucky, Massachusetts, Mississippi, Nebraska New Hampshire, South Carolina, Vermont, West Virginia and Wyoming.

In addition to enacting child occupant protection laws, states have developed and implemented a wide variety of child passenger safety education, training and enforcement programs. A typical state program might include a child safety seat loaner program, a safety seat education program for expectant parents, a child passenger protection public service announcement, and a law enforcement training and occupant protection promotion program. Several states have been particularly active in the child safety arena in the past year, including:

Pennsylvania: the state has developed an extensive car seat loaner program, funded primarily from fines for non-use which go into a loaner program funding pool. (For every seat the loaner program buys, five more are purchased with funds from the funding pool.) The state has also contracted with the local chapter of the American Academy of Pediatrics to operate a child safety seat hotline and has heavily involved the state's pediatricians in safety seat educational efforts.

Maryland: the state's child passenger association has just successfully put on a major child passenger safety conference attended by more than three hundred law enforcement officials, health professionals, and highway safety officials. The association plans to make the conference an annual event. The association also conducts workshops throughout the state and provides training sessions at local hospitals.

Indiana: the state gave 402 funds to Riley Children's Hospital in Indianapolis to develop special training programs as well as special child safety seat hardware for "medically fragile" children. The Hospital has performed its own crash testing of the hardware. The state has also funded the Hospital's nationwide child safety seat hotline.

Iowa: the state gave 402 funds to the Des Moines Police Department to develop and disseminate educational materials for school-age children and to develop a special training program for the Department. 15,000 child passenger safety coloring books were disseminated.

As a consequence of these kinds of activities at the state level, overall use of child passenger protection systems has increased from approximately 15 percent in 1980 to 83.5 percent nationwide in 1988.

However, the latest National Highway Traffic Safety Administration (NHTSA) estimates show that, in 1988, only 58.8 percent of those who use safety seats used them properly. Current NHTSA studies also indicate that, among certain population groups such as the

poor and school-age children, the use of passenger restraints is comparatively low.

Additionally, states are beginning to place more emphasis on adult occupant protection and less on child passenger safety. One reason for this shift is that, with the advent of airbags, states have had to adjust their occupant protection message. States are now trying to educate the public about the need to continue to wear seat belts even if a car is equipped with an airbag and about the benefits of seat belts and airbags used in combination. Secondly, since nationwide belt use is significantly lower (49% in 1988) for the adult population, states are targeting their education, training and enforcement efforts on that population group. Thirdly, some highway safety officials feel that the child safety seat "battle" is over since nationwide use rates are so high and that there is little more a state can do to encourage greater usage.

Despite the progress that has been made in child passenger protection, NAGHSR believes that much needs to be done to increase the usage of child safety seats and to ensure that such passenger protection systems are used properly.

Training, Public Education and Information

A number of new training initiatives could be developed by the federal government and implemented by state and local governments to ensure the proper use of existing child safety seats and to increase child restraint use among low-use groups.

We recommend that future training programs be targeted to groups not now being trained. For example, state and local agencies that register or license as well as train day care providers could include occupant protection in their training curriculum. Hospital personnel that currently check to be sure parents have a safety seat before taking newborns home from the hospital are an excellent potential resource for training parents in the proper use of their chosen infant seat. Public health nurses and pediatricians could, as part of a routine office visit, encourage young patients to wear belts. Employees of toy and department stores that sell child safety seats could be trained in the proper usage of those seats, and they, in turn, could provide training for expectant parents as part of store promotions that are already in place for such families. "Train the trainer" programs could be focused on automobile dealers and their sales forces who could then pass on their knowledge to families with young children who make automobile purchases. Dealers could also conduct car seat clinics to inspect for proper use and to train parents in the proper use of different kinds of safety seats.

Further, we recommend that education programs be developed and targeted to places not receiving public information about the benefits of child passenger protection systems or to those places receiving education programs only intermittently. Day care facilities and nursery schools could reinforce the message of

"buckle-up" to their charges through education programs targeted to very young audiences. Child safety seat public service announcements could be aired during the hours when young children are most likely to watch television, and cartoon characters could emphasize the importance of buckling up. Training programs for low income groups could be developed by the state highway safety office and offered through the local social service agency. Public information programs aimed at parents living in rural areas could be disseminated through the schools, churches and public health departments.

Public/private partnerships have proved successful in addressing many community problems. We believe that the child safety seat issue provides yet another opportunity for businesses to help their community, improve their community image, increase their visibility and show they are good corporate citizens. Local fast food franchises could offer a special reward to children who are properly restrained when the car in which they are riding patronizes the drive-in window. Shopping malls could promote proper safety seat use with an "Officer Friendly" law enforcement personality who checks vehicles in the parking lot and rewards children who are properly restrained. Insurance companies could provide reduced premiums or eliminate the deductible for policyholders involved in accidents in which a child was protected by a passenger restraint system. Insurance companies could also establish car seat loaner programs, as GEICO Insurance Company has done.

The federal and state governments could also encourage the formation of national and local occupant protection coalitions patterned after those initiated under the TEAM (Techniques for Effective Alcohol Management) program. (The TEAM program is a public and private coalition involving NHTSA and several major sports teams whose purpose is to promote responsible drinking at public facilities.) NHTSA should initiate discussions with insurance companies, safety seat manufacturers, fast food companies, national toy stores and others in order to educate them on the benefits of child safety seats and to get their involvement in the national coalition. Once the coalition has been established at the national level and funding secured for the coalition's activities, then local businesses will realize that there is a strong commitment to the coalition and will be inclined to join at the local level. Health care professionals, social service agencies, and enforcement personnel who may already be active on occupant protection issues at the local level could also be invited to join the local coalition.

The national coalition could also serve as a conduit for disseminating information regarding new product recalls, statistics, successful program results, and other important child passenger information needs to be strengthened. An information clearinghouse could facilitate the flow of information between NHTSA, state governments, manufacturers, pediatricians, automobile and insurance industries, researchers, national organizations, and local advocates working on child passenger safety. The National

Child Passenger Safety Association (NCPSA) served as a clearinghouse before its demise two years ago and could be rejuvenated to again serve this function.

Safety Seat Design

The manufacturers of child safety seats are to be commended for the advances in protection and convenience that they have developed in only a few short years. This progress, however, has also made the choice for consumers confusing. At one point, there were 56 different safety seats on the market, many of which had different design features and which offered different degrees of protection for the child. In short, there has been very little uniformity in the design of safety seats which, in turn, has led to their improper use. Further, there has been relatively little uniformity in safety seat instructions. Buyers of safety seats are often barraged with long and complicated instructions with no or confusing illustrations. We recommend that NHTSA use its authority under Federal Motor Vehicle Safety Standard 213 to review the effectiveness of current child safety seat performance standards. Similarly, we believe that the agency should either mandate uniform safety seat instructions or provide technical assistance to safety seat manufacturers to help them simplify and clarify the instructions that accompany child safety seats.

Another major design problem is the incompatibility of child safety seats and seat belts. In some cases, the vehicle seat belt cannot be threaded properly through the safety seat. In other cases, the vehicle lap belt does not adequately secure the safety seat because of the incompatibility of the safety seat with the vehicle seat. Although the auto industry has begun to address this issue through the Society for Automotive Engineering, we believe that NHTSA must facilitate and expedite the industry's efforts to correct this problem.

Automatic restraint systems also pose an incompatibility problem: they may be beneficial for adults but present numerous problems for children. Some automatic restraint systems do not allow for the use of a child safety seat without the purchase of special equipment or belts, some systems cannot be adapted for the child safety seat at all, and some automatic belt systems cannot be used at all by small children who have outgrown child safety seats. Since more and more automobile manufacturers will be offering automatic restraint systems over the coming years, the problem is clearly going to worsen. NHTSA must accelerate its research on this issue and promulgate standards and guidance as quickly as possible, including the revision of the automatic protection standard to mandate for provision of the necessary devices to accommodate child safety seats. Further, NHTSA should update its automatic restraint public information program and warn parents about the potential difficulties of using both automatic restraints and child safety seats.

Another problem is that of the intermediate child--those who have outgrown their child safety seat but who are still too small to be

properly protected by current occupant protection devices. The availability of lap-shoulder combinations in rear seating positions may mitigate much of this problem, but the belts must be properly designed if they are to provide protection for both children and adults. We urge NHTSA to consider the safety seat design problems of the intermediate child and make the necessary adjustments to the Federal Motor Vehicle Safety Standard 208 as quickly as possible.

Booster seats also present a significant design problem. The original booster seats were designed to be used in combination with shoulder belts in the rear seat or with rear seat tethers. However, at the time when these seats were on the market, most types of cars were not equipped with rear seat shoulder belts, and many parents did not want to be bothered anchoring a booster seat with a tether bracket that required bolting the tether to the rear shelf of the car. As a result, many parents anchored these booster seats just with a rear seat lap belt which did not provide proper protection for young children. Recognizing this problem, manufacturers removed these belt-positioning booster seats from the market and replaced them with the mini-shield booster seat which avoids the need for a shoulder belt or safety harness. However, current studies indicate that this option may be more dangerous than using the lap belt only. We recommend that NHTSA update the design standards for booster seats under Standard 213 and that it reexamine the benefits of the small-shield booster seat at the same time. NHTSA should also encourage the manufacturers to re-introduce the belt-positioning booster seats since so many cars now have rear seat shoulder belts.

Occupant protection systems for handicapped children also present a significant design problem which will require greater attention as more and more handicapped children are mainstreamed. Safety seats for medically fragile children must be usable by children of all ages (not just the very young) and must be adaptable for different kinds of medical impairment. Additionally, these seats must be easy to install and must be affordable. Again, we urge NHTSA to take the lead on this issue and work with manufacturers in the development and crash testing of these safety seats. NHTSA should also work with state and local governments to widely disseminate information about the availability of these safety seats and to develop special training programs for their installation and use.

Conclusion

To reiterate, NAGHSR believes that the federal and state governments have made considerable progress in ensuring the protection of children in motor vehicles. In order to increase the number of children in safety seats and to ensure that the seats are being used properly, additional training and educational efforts are needed, and major adjustments to the federal child safety seat and occupant protection standards are necessary.

Senator BRYAN: Mr. Burgess, I thank you very much.

I can say personally as a parent there is no greater concern that we have than the welfare of our children. It tugs at our heartstrings, it makes little a little tear well up in your eye when you think of your kids and their safety. And Captain, your first-hand experience as a trooper, I am sure is kind of a gut-wrenching experience as a parent, to see what has happened to somebody else's child.

Your comments, Mr. O'Neill, about some things that we ought to be doing are useful. Perhaps we ought to be encouraging hospitals before women who have just given birth take that youngster home that they cuddle so tentatively as they leave that first time, maybe we ought to tell them that they ought to be having a seatbelt or a child restraint system for that youngster.

Most parents these days are seeing a pediatrician. You have a tremendous opportunity, your professional group, doctor.

Next week, as you know, is National Child Passenger Safety Awareness Week. My charge as the chairman of this subcommittee would be to be creative in terms of using the opportunity of that national safety week to get on the airwaves and to get in the newspaper and to use that as a real vehicle and forum to educate parents about the use of these child safety resources.

We should not forget grandparents, either. They have oftentimes a good bit to do with our children and transporting our children about on our streets and highways.

So I wish each of you well I know you will respond and I hope you will continue to be involved in this issue, working with this committee, working with NHTSA and others. We always welcome your comments.

I thank you all for your testimony.

I thank the audience. You have proved at least one thing: You all have excellent kidneys. And I thank you.

[Whereupon, at 1:17 p.m., the subcommittee was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF EDWARD H. UTLEY, PRESIDENT, GEICO CORP.

I am Edward Utley, President of GEICO Corp., the fifth largest shareholder-owned property and casualty insurer in the United States. I appreciate the opportunity to present testimony on a topic that is important to GEICO and to me personally—child passenger safety.

Hundreds of children die needlessly on our Nation's roadways each year. The mandatory child restraint laws passed in all 50 States and District of Columbia during the 1980's helped to increase the use of child restraints dramatically. But too many otherwise loving, caring parents still allow their children to travel unprotected. Even one child at risk is reason enough for private enterprise, public agencies, the law enforcement community, and private citizens to continue vigilant efforts to promote the use—and the *correct* use—of child safety seats.

Last July, GEICO completed the first phase of a program called Safe Rider, which provides child safety seats at a discount to our policyholders, shareholders, and employees. During the first 5-year phase of the program, an individual could purchase a $60 child restraint for $20. GEICO paid the balance of the purchase price. More than 45,000 safety seats were purchased through this discount program.

But the program benefits didn't stop with the seat purchases. Anyone who bought a seat can return it when it's no longer needed and receive a full refund from GEICO. Returned seats are refurbished and donated to loan programs at Hospitals, social services agencies, military family service centers, and other community organizations. To date, thousands of seats have been returned and recycled into community programs.

Phase two of the Safe Rider Program is now underway. GEICO continues to offer child restraints, both safety seats and booster seats, at a significant discount to policyholders, shareholders, and employees. So far, nearly 40,000 have been purchased, bringing the grand total for restraints purchased through the program to approximately 85,000.

In addition to participating in the discount purchase program, GEICO employees have the opportunity to borrow an infant restraint from our corporate loan program. Any employee who's an expectant parent can borrow an infant safety seat for up to 9 months at no charge.

GEICO also has been active in providing child safety seats to young military families through our baby's first ride program. The program was initiated in 1983 to help establish or supplement existing safety seat loan programs on military installations. So far, we've donated nearly 5,000 child restraints to armed services, YMCA's, military hospitals, and military family service centers in the United States and Germany.

Because proper use of restraints is so important to their effectiveness in preventing deaths and injuries, GEICO continues its public education efforts to encourage correct installation of safety seats. Recently, we sent out camera-ready consumer columns on proper seat use to hundreds of small daily and weekly newspapers across the country. We've had success in getting letters to the editor on this topic published, particularly in areas where GEICO has regional offices. Next week during National Child Passenger Safety Week, we'll release a feature article to the media on the proper use of safety seats. We also promote child passenger safety in our policyholder magazine, "GEICO Direct."

Obviously, GEICO has a business interest in preventing motor vehicle deaths and injuries among young children. But the deeper motivation behind our child passenger safety efforts is the preservation of our Nation's greatest resource—our children. I speak to you today, not only as an insurance executive, but as a father and grandfather who is concerned about traffic safety. I urge this committee to do everything within its power to assure that all children in the United States travel in child restraints.

Thank you.

STATEMENT OF ROBERT F. MC DERMOTT, CHAIRMAN, & CEO, USAA

Mr. Chairman, I am Robert F. McDermott, Chairman and Chief Executive Officer of USAA, the nation's sixth-largest auto insurer.

I appreciate your courtesy in permitting this statement to be included in the record of the Senate Consumer Subcommittee's hearing on child passenger safety. I wish to commend you for addressing this important issue which concerns the saving of lives and reduction of serious injuries of children who are occupants in automobiles.

Child safety is an integral part of the safety message that USAA has been communicating regularly to our two million members and employees. To enhance further the safety of children riding as passengers, we have published numerous articles in the USAA member magazine, AIDE, about child safety seats, how they are to be used and the value of having them. I enclose several examples for the information of the Subcommittee.

As a further incentive to our members to use safety seats for their children, USAA has been providing them at a reduced price and free to our employees. As of December 26, 1989, we have delivered 318,168 of those seats. To the best of my knowledge, no other company or organization has provided as many of these safety devices to its employees or policy-holders as USAA.

We are convinced of the value of child safety seats and urge the subcommittee to encourage the American public to use them. We estimate, conservatively, that within the USAA family of employees and members we have saved more than 60 lives since we began providing child safety seats in 1984. (An expanded rationale is enclosed.)

Those are statistics and interpretation. We also have received numerous testimonials from our members attesting to the value of the child safety seats in the real world. The support of USAA members for this program is overwhelming. The child safety seats have, in fact, saved lives and reduced injuries. For the record, I enclose copies of letters from USAA members so stating.

USAA has a strong commitment to auto and highway safety in all of its forms. We have been in the forefront of numerous efforts over the years to enhance the safety of automobile occupants. We have vigorously supported the long crusade to require automatic occupant restraints in automobiles, most particularly the air bag. We are pleased that the effort has borne fruit; in the 1990 model year, for the first time ever, automatic restraints -- air bags or automatic seat belts -- are required in all cars sold in the United States.

In addition, USAA has conducted an extensive internal and external safety program called "Drive Smart," which encourages our employees, members (policy-holders) and the driving public to practice safe driving and to purchase cars with automatic restraints, preferably air bags.

USAA has been a safety leader in the insurance industry as well. We now offer the most extensive array of discounts and incentives in the industry for the use of safety belts, air bags and antilock brakes.

Highway deaths and injuries constitute a significant public health problem in the United States. But we can take steps to reduce the terrible toll as I mentioned above. The use of child safety seats is an important element in the safety equation. If every American parent ensures that his or her child uses a safety seat while in a car, that will go a long way toward drastically reducing the present level of death and injury.

Again, Mr. Chairman, I commend you for holding this hearing. It will communicate the message to more Americans that the means is available; they merely need to act.

Thank you.

Enclosures 1/

RATIONALE FOR ESTIMATING LIVES SAVED

We base this assessment on National Safety Council and Census Bureau data. Those data show that car occupant deaths for children 4 years of age and under were about 5 per 100,000 population per year prior to the widespread enactment of child safety seat laws between 1978 and 1980. Assuming an 80 per cent safety seat effectiveness in preventing deaths (according to The Car Book) and a 20 per cent usage rate prior to the enactment of the laws (according to the Washington State Study), there would be about 6 deaths per 100,000 population per year for children 4 and under without safety seats. Therefore, again assuming 80 per cent effectiveness, safety seats save about 5 lives per 100,000 seats per year and, if used for four years, save 20 lives per 100,000 seats sold.

1/ The enclosures were not reproducible.

STATEMENT OF DR. FREDERICK RIVARA, DIRECTOR, HARBORVIEW INJURY PREVENTION AND RESEARCH CENTER

CHILD SEAT RESTRAINTS

The dramatic increase in use of child safety seats over the last decade represents one of the shining success stories in pediatrics and injury prevention. In one short decade, use of car seats for infants and children has gone from less than 10% to now 70%. All 50 states now have legislation on the books mandating that children be properly restrained. In our own state, this has increased seat restraint use from 42% in 1983 to 73% in 1985. Our current use of 86.6% is one of the highest in the nation on the 19 city surveys conducted by the National Highway and Traffic Safety Administration.

Pediatricians played a crucial role in bringing about this change. Washington state pediatricians and safety advocates were at the forefront of this movement. Dr. Robert Scherz, medical director of Mary Bridge Children's Hospital in Tacoma was the first to demonstrate that these devices could reduce the risk of death for a child in a motor vehicle collision by more than 90%. His estimates have proven true; the number of injuries to children in this state has dropped by 60% in the last five years because of the increase in restraint use. Dr. Abraham Bergman of the University of Washington and the founder of the Injury Prevention and Research Center at Harborview Medical Center was one of the leaders in using innovative educational approaches to improving parental use of seat restraints. Washington was also the birthplace of the grassroots parents' group, Action for Children's Transportation Safety, which served an important role in bringing about improvements in availability and quality of child safety seats.

As we enter the 1990's, it is appropriate to review the lessons which might be learned from this decade long effort in injury prevention and begin to think how they might be applied to presently unsolved pediatric problems such as burns, head injuries and pedestrian injuries. Perhaps the most important lesson was that individual problems require specific solutions. Too often in the past, parents have been told to be "more careful" and to supervise their children more closely, advice which is well meaning but has done little good. The Harborview Injury Prevention and Research Center, one of seven such centers in the country, has therefore tried to develop focused, targeted interventions. For example, head injuries are the most common serious injury related to bicycling and account for some 600 deaths to children and adolescents each year in the United States. The Center has developed a community wide program focusing narrowly on helmet use; as a result the program has increased helmet use among Seattle school

children from 2% to 25% in four years and has served as a national model for communities and organizations around the country.

The child safety seat experience also taught us that isolated efforts are not likely to be successful; broad community wide programs consisting of multifaceted interventions are necessary in order to make a difference. Increased use of seat restraints was accomplished through a combination of legislation, educational programs in the media, parent education in hospitals and physicians' offices, and loaner programs for low income families. These same types of multifaceted approaches are necessary for such large, complex problems as child pedestrian injuries, the most common cause of traumatic death in young school-aged children. For the last three years, the Center at Harborview has been developing a community wide project to combat pedestrian injuries to children, involving school training, parent education, police enforcement, legislation and engineering modifications. Such efforts must continue and be replicated elsewhere if problems such as these are to be solved.

Thus, this review of the child seat restraint effort should serve as both a chance to congratulate ourselves as well to renew our resolve to lessen the toll of trauma in our young.

1988 RESTRAINT USAGE BY OCCUPANT AGE

Age	Child Restraint		Lap and Shoulder Belt		Shoulder Belt		Lap Belt		Restraints Not Used	
	Number	% of total	Number	% of total	Number	% of total	Number	%of total	Number	% of total
Under 1	454	72%	79	12.5%	2	-	29	5%	67	10.5%
1	774	68.9%	131	11.6%	12	.1%	106	9%	100	8.9%
2	609	42.5%	270	18.8%	19	1.3%	331	23%	204	14.2%
3	320	24.5%	331	25.4%	25	1.9%	448	34.4%	178	13.7%
4	134	10.6%	375	29.8%	20	1.6%	513	40.8%	215	17.1%

July 1983 → July 1984

Nine - year Comparison of Child Restraint Usage

Percent used Restraints

1983	1984	1985	1986	1987	1988
42%	66.8%	73.1%	81.0%	85.6%	86.6%

Severity of Injuries												
	Number Used		Deaths		Disabling Injuries		Evident Injuries		Possible Injury		No Injury	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
1983												
Child Restraint Use	1,095	0.7	3	0.7	8	0.2	73	0.4	87	0.5	924	0.8
No Restraint	119,639	79.0	416	90.8	4,639	89.7	14,285	85.4	13,822	78.6	86,477	77.7
1988												
Child Restraint Use	2,720	1.3	4	0.7	22	0.4	147	0.8	172	0.6	2,375	1.6
No Restraint	40,365	20.0	405	72.7	2,866	51.5	7,608	39.5	5,766	21.3	22,720	15.9

In Washington State, a mandatory child restraint law took effect in July, 1983. The law was enforced beginning July , 1984.

1983 RESTRAINT USAGE BY OCCUPANT AGE										
Age	Child Restraint		Lap and Shoulder Belt		Shoulder Belt		Lap Belt		Restraints Not Used	
	Number	% of total	Number	% of total	Number	% of total	Number	% of total	Number	% of tot.
0-1	564	48.5	68	5.8	10	0.8	75	6.4	446	38.3
2	244	26.5	45	4.9	3	0.3	103	11.2	525	57
3	105	12.8	70	8.5	4	0.4	124	15	517	63
4	47	5.8	70	8.6	7	0.9	144	17.8	539	66.8

1988 RESTRAINT USAGE BY OCCUPANT AGE										
Age	Child Restraint		Lap and Shoulder Belt		Shoulder Belt		Lap Belt		Restraints Not Used	
	Number	% of total	Number	% of total	Number	% of total	Number	%of total	Number	% of total
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